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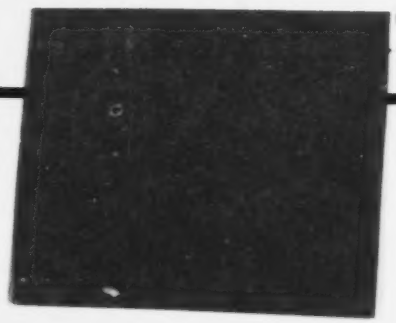

COMMISSION ON CRIME PREVENTION
AND CRIMINAL JUSTICE
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INTERNATIONAL COOPERATION IN COMBATING TRANSNATIONAL CRIME

Implementation of the Naples Political Declaration and Global Action Plan against Organized Transnational Crime

Report of the Secretary-General

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INTRODUCTION

1. Pursuant to General Assembly resolution 49/159 of 23 December 1994, the Commission on Crime Prevention and Criminal Justice, at its fifth session, continued to review the implementation of the Naples Political Declaration and Global Action Plan against Organized Transnational Crime, adopted by the World Ministerial Conference on Organized Transnational Crime, held at Naples, Italy, from 21 to 23 November 1994 (A/49/748, annex, chap. I, sect. A). On the recommendation of the Commission, the Economic and Social Council adopted resolution 1996/27 of 24 July 1996, in which it requested the Secretary-General to assist in the implementation of the Naples Political Declaration and Global Action Plan, and to continue collecting and analysing information on the structure, dynamics and other aspects of all forms of organized transnational crime, with the assistance of Member States, other entities of the United Nations system, as well as relevant intergovernmental and non-governmental organizations, and to provide advisory services and technical assistance to requesting Member States in needs assessment, capacity-building and training, and to develop training manuals for specialized law enforcement and investigative personnel on action against organized transnational crime.

2. The Economic and Social Council also requested the Secretary-General to make a thorough analysis of the views of Governments on the possibility of elaborating a convention or conventions against organized transnational crime, taking into account, *inter alia*, the Buenos Aires Declaration on Prevention and Control of Organized Transnational Crime (E/CN.15/1996/2/Add.1, annex); to make proposals on the action that would be appropriate; and to make proposals for the undertaking of practical activities by States to implement the Naples Political Declaration and Global Action Plan; and decided that the Commission on Crime Prevention and Criminal Justice should establish an in-sessional working group at its sixth session for the purpose of considering the report and proposals of the Secretary-General, identifying practical activities for effectively implementing the Naples Political Declaration and Global Action Plan and considering the possibility of elaborating a convention or conventions against organized transnational crime and identifying elements that could be included therein.

3. On 12 December 1996, the General Assembly adopted resolution 51/120, in which, taking note of the proposed draft United Nations framework convention against organized crime introduced by the Government of Poland (A/C.3/51/7, annex), it requested the Secretary-General to invite all States to submit their views on the question of the elaboration of an international convention against organized transnational crime, including, *inter alia*, their comments on the proposed draft United Nations framework convention; and requested the Commission on Crime Prevention and Criminal Justice to consider, as a matter of priority, the question of the elaboration of an international convention against organized transnational crime, with a view to finalizing its work on the question as soon as possible, and to report through the Economic and Social Council to the Assembly at its fifty-second session on the result of its work on the question.

4. The present report contains information provided by 24 States (Austria, Belarus, Bosnia and Herzegovina, Brazil, Chile, Colombia, Cook Islands, Cyprus, Czech Republic, Denmark, Estonia, Finland, Greece, Guatemala, India, Japan, Mexico, Morocco, Poland, Saudi Arabia, Slovakia, Spain, Turkey and United States of America) and by 16 out of 31 United Nations entities, affiliated regional institutes for the prevention of crime and the treatment of offenders affiliated and associated institutes, and intergovernmental and non-governmental organizations, which replied to the request for information (see annex). The responses of Governments reflected in the present report should be considered in the light of the report of the Secretary-General submitted to the Commission at its fifth session and in conjunction with the conclusions and recommendations of the Regional Ministerial Workshop on Follow-up to the Naples Political Declaration and Global Action Plan against Organized Transnational Crime, held at Buenos Aires from 27 to 30 November 1995 (E/CN.15/1996/2 and Add.1, respectively). Pursuant to General Assembly resolution 51/120, and in compliance with its provisions, the Secretary-General pursued further consultations with Member States seeking their views on the text of the draft framework convention submitted to the General Assembly by the Government of Poland. In accordance

with that resolution, Member States were asked to submit their views not later than two months before the sixth session of the Commission. The results of those consultations will be brought to the attention of the Commission separately.

I. IMPLEMENTATION OF THE NAPLES POLITICAL DECLARATION AND GLOBAL ACTION PLAN

5. The process initiated by the World Ministerial Conference on Organized Transnational Crime has fostered an increasing worldwide awareness of the threat posed by organized crime and the measures that are necessary to best equip countries to react to that threat. The process has also continued to generate a wealth of information that needs to be systematized and analysed in order to draw up a well-structured programme of activities that would lead to the full and expeditious implementation of the Naples Political Declaration and Global Action Plan. The results of the continued consultations of the Secretary-General with Governments and relevant intergovernmental and non-governmental organizations are reflected in the following paragraphs, together with a summary of the information provided. A more extended version of the information provided to the Secretary-General throughout the consultation process, along with summaries of legislation provided, will be included in the central repository of information the Secretariat is currently establishing pursuant to Economic and Social Council resolution 1996/27.

A. Action by Member States

Austria

6. Austria indicated that its efforts in the prevention and control of organized transnational crime had been strengthened by a number of bilateral agreements on cooperation in organized transnational crime matters signed by its Federal Ministry of the Interior with its relevant counterparts in other countries. At the same time, the criminal code was being amended so as to improve the legal foundations of the fight against organized crime. Major revisions would include the revision of the offence concerning the setting up of a criminal organization with a view to specifying its essential elements, including its hierarchical structure, internal division of responsibilities and criminal activities usually carried out, and the inclusion of that offence in the list of those crimes which, even if committed in another country, can be prosecuted by the Austrian criminal justice system; strengthening the provisions for the forfeiture and confiscation of illicit proceeds; and the revision of the extradition law so as to comply with the requirements of the Schengen Agreement and to facilitate international cooperation and investigation.

Belarus

7. Belarus has experienced an aggressive growth in organized crime activities and criminal presence on its territory. Most organized crime groups have close links with groups operating in other countries of the region and are involved in trafficking in stolen vehicles, illicit drug trafficking, arms trafficking, counterfeiting of foreign currency (mostly United States dollars, deutsche mark and Russian roubles), money-laundering and smuggling of migrants, using the country as a transit State. The characteristics of those criminal groups, which closely resemble those of groups operating in other countries, their hierarchical structure, internal code of conduct, resources available and ability to penetrate the market, make local organized crime a highly dangerous feature for the newly established social and economic setting of Belarus. The Belarusian authorities are trying to react to that criminal aggression by reinforcing existing law enforcement agencies, strengthening cooperation with other countries, especially members of the Commonwealth of Independent States (CIS), and participating in international initiatives on preventing and controlling organized crime. In that context, Belarus pointed out that it had recently hosted an international seminar on organized crime, organized with the Council of Europe and attended by a number of eastern European countries, international organizations and individual experts.

The main conclusions of the seminar were that relevant international organizations should provide their assistance to countries in need, while the latter should make every possible effort to ratify existing relevant international instruments and to elaborate new ones aimed at combating organized transnational crime.

Bosnia and Herzegovina

8. Bosnia and Herzegovina indicated that its criminal legislation contained provisions that would allow it to deal with criminal acts carried out by organized crime groups. In particular, the country had witnessed during the war forms of crimes that, given their sophistication and the means employed, were classified as organized criminal activities, in particular illicit trafficking in stolen cars, passing of counterfeit banknotes, mostly United States dollars and deutsche mark, and suspicious financial transactions that were considered to cover up money-laundering schemes. Owing to the cross-border character of those criminal activities, Bosnia and Herzegovina recognized the importance of and was ready for cooperation with other members of the international community in fighting organized crime, starting with the regional level, where the Government was preparing a draft agreement to be signed with a neighbouring country on mutual assistance and collaboration in preventing and controlling organized crime, illicit trafficking in narcotic drugs and terrorism. Because of the limited resources available, Bosnia and Herzegovina would welcome the support of international organizations and other countries with experience in organized crime prevention and control, especially in the form of adequate equipment and training for law enforcement personnel and assistance in drafting legislation. At the same time, however, it regretted that a number of requests for extradition of common criminals submitted to the competent authorities of various other States had not yet been satisfied by the receiving countries, thus allowing criminals to escape justice.

Brazil

9. Brazil indicated that its activities against organized crime were focusing on two main areas, new legislation and international cooperation. As far as the first issue was concerned, two new laws had been passed that made carrying firearms a punishable offence and regulated the use of telephone surveillance, while draft legislation on money-laundering was under review. International cooperation had been strengthened by, *inter alia*, two bilateral agreements to trace illicit trafficking in firearms and to control car theft; a tripartite agreement on exchange of information on criminal activities in border areas; a protocol on mutual assistance in criminal matters, which Brazil had signed as a State member of the Common Market of the Southern Cone (MERCOSUR); and the ratification of the Panama convention.

Chile

10. Chile also approached the threat posed by organized transnational crime through the development of new legislation and strengthened international cooperation. Following the pattern set by the Naples Conference, a series of legislative measures had been developed in key areas of organized crime, such as illicit drug trafficking, money-laundering, trafficking in illegal migrants and firearms control. A new law concerning illicit drug trafficking and related money-laundering had been passed, which included measures already tested by other countries and, in particular, the protection of cooperating witnesses, including former criminals, and their families, and the use of controlled deliveries, undercover agents and surveillance techniques, which may provide useful information to investigate and prosecute such crimes. With a view to facilitating its cooperation with other countries, Chile had signed or acceded to a number of cooperation agreements and treaties on organized crime, terrorism, illicit trafficking in narcotic drugs, money-laundering, kidnapping of and trafficking in children and mutual legal assistance and extradition.

Colombia

11. Development of national legislation and action oriented towards strengthened international cooperation were also the main measures that Colombia was taking in its fight against organized transnational crime. In addition to establishing grounds for the increase of some penalties, changes were being made in criminal legislation concerning organized crime, trafficking in narcotic drugs, terrorism, arms trafficking and money-laundering. The most significant provisions enacted to prevent and control organized crime were those meant to eradicate crimes frequently carried out by organized crime, such as abduction and extortion, and measures to control corruption in the public service. At the international level, over the last decade, a number of treaties, agreements and other instruments on mutual assistance in criminal matters had been signed with several countries of various regions, in addition to an agreement with the European Union (EU) on precursors and chemical substances used in the illicit manufacture of narcotic drugs. A model agreement dealing with the diversion of precursors and chemical substances had also been drafted and shared with other countries with a view to strengthening cooperation in that field, while a bilateral agreement to control illicit trafficking in arms, explosives and ammunition had been proposed to two countries of the region.

Cook Islands

12. The Cook Islands pointed out that although organized transnational crime had not yet appeared within its territory, law enforcement authorities continued to be informed of developments overseas and had suggested to the relevant political authorities that they consider promulgating legislation to prevent and control organized transnational crime and that they also strengthen international cooperation in the field by acceding to relevant conventions and instruments.

Cyprus

13. In 1996, Cyprus introduced a new law on the prevention and suppression of money-laundering activities whose aim was to attack one of the most essential goals of organized crime, illicit profits. The law concerned laundering and predicate offences, thus allowing the prosecution of those who assisted in laundering the proceeds derived from one or more of the criminal acts indicated by the new law. The predicate offences included premeditated murder, illicit drug trafficking, arms trafficking and the use or the threat of use of force to acquire money or property illegally. The law also included relevant provisions to facilitate international cooperation, in particular within the States parties to the Council of Europe's Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, and provisions that established a unit and an advisory authority to combat money-laundering. While the unit was an entity with law enforcement duties, the authority was a technical body that provided the Government with policy guidelines on the implementation of the law and measures needed to implement it more effectively. Special provisions were also set by the law for a number of financial businesses to prevent the use of their services by criminals.

Czech Republic

14. The Czech Republic acknowledged that organized crime groups were finding suitable conditions to operate within its territory, mainly as a result of the social and economic changes taking place in the country. While, in many ways, new values and principles were affecting society in a positive way, the relatively young institutions were not always able to deal with criminal activities that were being carried out by organized transnational crime. Because of its location, the Czech Republic was being used as a transit country for the smuggling of illegal migrants, illicit drugs, stolen cars, arms and explosives and art objects. Other criminal activities included economic crime, corruption, racketeering and forgery. The Czech Republic, however, had already taken serious steps to confront this criminal wave on the basis of the Berlin Declaration on Increased Cooperation in Combatting Drug Crime and Organized Crime in Europe (1994) on intensifying cooperation in combating trade in narcotics and organized crime in Europe. Its strategy was based on a number of measures,

which were summarized as legislative provisions in the areas of proceeds of crime, improvement of law enforcement capabilities, relying on the assistance and expertise of other countries that had already experienced organized crime problems and had developed methods to prevent and control it, better coordination among the relevant national authorities and improved international cooperation.

Denmark

15. Denmark indicated that it was unable to provide information on the matter owing to lack of resources.

Estonia

16. Estonia submitted a report containing information on the structure and dynamics of organized crime groups operating on its territory. The Estonian criminal code considered as organized crime groups those criminal associations composed of three or more members who, on a constant basis and with identified functions, committed serious criminal offences; using that definition, the Estonian authorities reported that in the last decade more than 10 criminal associations had been identified in the country, 8 of them operating permanently since their formation in the mid-1980s. Criminal activities usually carried out by organized crime included extortion, car theft and trafficking, corruption, drug trafficking and money-laundering. Alarming signs had also emerged that criminal groups were trying to infiltrate legitimate businesses, especially banks and financial enterprises, and were trying to corrupt public officials charged with delicate tasks, such as border control or passport issuance. While most of the criminal groups investigated were composed of Estonians, it was reported that some of them had close contacts or stable relationships with criminal groups abroad. The Estonian authorities had taken steps to fight organized crime by proposing amendments to the criminal code to better prevent and punish offences that strengthened organized crime groups involved in activities such as extortion, gambling, prostitution and drug production.

Finland

17. Finland pointed out that the Naples Political Declaration was an important proof of the desire of Member States that the United Nations be involved in and make efforts towards preventing organized transnational crime, in particular by assisting the international community in developing and implementing practical measures to fight that type of crime. Finland had undertaken major reforms of its criminal legislation to strengthen its capacity to cooperate with other countries by ratifying international conventions and instruments or signing bilateral agreements with a number of countries, especially within Europe. Other pieces of legislation had been recently amended that made money-laundering a separate criminal offence and introduced corporate liability.

Greece

18. Greece indicated that although no legal provisions had been enacted that dealt with organized transnational crime in particular, its law enforcement agencies were operating against organized crime and making use of criminal legislation designed to tackle illicit drug trafficking, crimes related to firearms, money-laundering, trafficking in illegal migrants and other offences typically committed by organized crime groups, and that a number of characteristics of organized crime had been identified within the framework of EU and were being applied by national authorities to classify an illegal action as a form of organized crime. Particularly relevant was the legislation enacted to control money-laundering and criminal assets in general, which included a broad number of criminal activities whose revenues were to be disguised through money-laundering schemes, the reversal of the *onus probandi* as to the source of the assets for those who were sentenced for one of the crimes covered by the law and the obligation for financial institutions to report any suspect transaction to the competent authorities. Greece continued to cooperate with other countries, especially members of EU, to strengthen international cooperation against organized transnational crime.

Guatemala

19. Guatemala had not yet drawn up a policy to fight organized crime and thus lacked the required legislation, nor had it identified any international instrument that would permit it to participate in the prevention and control of organized crime.

India

20. India pointed out that organized crime was expanding its criminal activities in the country, especially through terrorism, illicit drug and arms trafficking, corruption, trafficking in illegal migrants, illicit economic activities, including money-laundering, fraud and counterfeiting, and theft of art objects. The Government of India had recognized the threat posed by organized transnational crime and measures had been taken at both the organizational and legislative levels by streamlining and reinforcing law enforcement agencies dealing with sophisticated forms of crime, as well as by drafting and passing legislation that dealt with, *inter alia*, terrorism, drug trafficking, smuggling of valuables and money-laundering. India also continued to attach importance to international cooperation, in particular by signing extradition treaties with a number of countries.

Japan

21. Bearing in mind relevant resolutions and recommendations adopted by the United Nations and other international forums, including the Naples Political Declaration and Global Action Plan, Japan was reviewing possible legislative measures for effectively combating organized crime. Specific legislative measures dealing with organized crime had been included in an anti-drug special law, which also contained provisions to facilitate international cooperation.

Mexico

22. Mexico indicated that its Parliament had just passed a federal law against organized crime following a presidential initiative to strengthen the rule of law and fight against that form of crime. Major features of the legislative action, which established clear rules for the investigation, prosecution, trial and punishment of criminal offences committed by members of organized crime groups, included the creation within the office of the Prosecutor-General of a specialized organized crime unit, as well as legal provisions concerning the use of surveillance of private communications if it was suspected that a criminal activity was being carried out by organized crime, the forfeiture of criminal proceeds, measures to strengthen the protection of judges, experts, cooperating witnesses and other parties to the trial process, and measures to strengthen international cooperation.

Morocco

23. Morocco expressed the need to strengthen the exchange of information and cooperation between countries, in particular in the field of law enforcement activities, exchange of personnel and assistance in training. Morocco was deeply concerned about the fight against organized crime, as witnessed by the number of legislative acts enacted to prevent and control illicit drug trafficking and trafficking in arms and explosives.

Poland

24. Poland pointed out that a number of initiatives had been taken in line with the conclusions and recommendations contained in the Naples Political Declaration and Global Action Plan. National legislation had been reviewed to strengthen the capacity of the country to deal with new forms of crime carried out by organized crime. In particular, money-laundering had been criminalized for predicate offences such as illicit drug trafficking, arms trafficking, forgery and extortion, and banks were being asked to ascertain the identity

of customers who carried out transactions exceeding an established amount and to inform the competent authorities if a transaction appeared to be intended to disguise the proceeds of a crime. New provisions were also introduced that increased penalties for participants in organized criminal groups and for certain criminal offences that were usually committed by organized crime. According to those provisions, persons sentenced for such crimes would serve their sentence in high-security prisons. The new laws would allow law enforcement agencies to rely upon the use of modern investigative techniques, such as electronic surveillance and controlled deliveries, as well as the use of unidentified witnesses. Poland had also taken measures to restructure its law enforcement agencies with a view to strengthening their capacity to cope with organized crime, establishing anti-organized crime units and raising the professionalism of law enforcement personnel, in particular through national and international training programmes and working seminars. Poland had ratified the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 (the Vienna Convention) and its Parliament was reviewing the Convention on the Laundering, Search, Seizure and Confiscation of the Proceeds from Crime of the Council of Europe with a view to acceding to it.

Saudi Arabia

25. Saudi Arabia was among those countries which had realized at an early stage the dangers posed by organized crime and had therefore taken several actions at both the national and international levels. Those measures included the establishment of a national standing committee composed of law enforcement officers and academic experts charged with undertaking research on various forms of crime usually carried out by criminal organizations and of a department of public security specialized in organized crime, as well as the development of specialized training programmes for law enforcement personnel and public awareness campaigns to sensitize the Saudi public to the dangers posed by organized crime. At the international level, the approach of Saudi Arabia was that of developing a constructive dialogue between all nations oriented towards the discussion and preparation of international legal instruments and the enhancement of inter-state cooperation.

Slovakia

26. Slovakia indicated that organized crime had become more and more aggressive and dangerous and that it was profiting from the phase of transition and change that the country was still experiencing. The Slovak authorities, concerned that illicit drug trafficking, terrorism, arms trafficking, fraud, money-laundering and other criminal activities being carried out by criminal groups with international connections might have a negative impact on the still relatively young national institutions and society in general, had taken steps to strengthen the law enforcement capacity of the national agencies, to create a better understanding among the population of the risks posed by organized crime and to reinforce international cooperation with a view to fighting internationally operating criminal groups.

Spain

27. Spain submitted a study on the structure and dynamics of organized transnational crime based on information collected at the national level by means of a questionnaire completed by all units of the judicial police. Data cover the origins of criminal organizations, the cooperation between criminal groups, the criminal activities carried out and the locations where organized crime groups are more present. On the basis of the information collected, Spain has developed a criminal policy that focuses in particular on law enforcement activity in the prevention and control of organized crime and the fight against terrorism, illicit drug trafficking and economic and financial crimes, including money-laundering.

Turkey

28. In addition to having ratified the 1988 Vienna Convention on Narcotic Drugs, Turkey's Parliament has recently passed a law against money-laundering that is designed to bring Turkey in line with other countries,

it having been realized that criminal organizations, especially those engaged in cross-border activities such as illicit drug trafficking, could be better attacked through the proceeds of their crimes. Turkey also noted recent incidents relating to the criminal activities of a terrorist group.

United States of America

29. The United States of America described the structure and dynamics of organized transnational crime groups operating in its territory, the approach that law enforcement agencies had taken to prevent and control their activities and the efforts that the Government was making through legislation and international cooperation to reduce the scourge organized crime posed to citizens. It highlighted certain characteristics and activities that identified criminal groups: continuing and self-perpetuating criminal conspiracy and an organized structure, fed by fear and corruption and motivated by greed. Such organizations maintained their position through the use or threat of violence, corruption of public officials, graft or extortion. Major criminal activities in which organized transnational crime was engaged were violent behaviour and the use of bribery, graft and extortion that could lead to the subversion of the political, social and economic infrastructure, drug trafficking, terrorist activities, kidnapping, prostitution, counterfeiting of currencies, manipulation of financial institutions and markets, international money-laundering and financial fraud, arms smuggling, alien smuggling and computer crime. More than any other area of crime, organized crime had made the internationalization of law enforcement imperative. The lead United States law enforcement agency, the Federal Bureau of Investigation, was actively engaged in tracking organized transnational crime within the national territory and abroad, in cooperation with sister organizations in other countries. The analysis of methods and operations of organized crime had led to the identification of evidence that should be kept in mind when dealing with the issue and devising strategies to react. Those features included the purpose of organized crime, which was to acquire profits; member loyalty, based on ethnicity and family considerations; and methods of operation, which included corruption of government officials. Since organized transnational crime respected no boundaries, the United States submitted that the first priority of the international law enforcement community was the dismantling of organized transnational crime groups through improved coordination of international and domestic investigations. Law enforcement activities against organized crime were being carried out through 23 strike force units, which collaborated with all national law enforcement agencies - state, federal and local - and legislation had been passed and implemented that dealt with the most prominent criminal offences carried out by organized crime. The United States was active on the international scene both at the bilateral level, where it carried out joint operations and cooperated with many countries of different regions, and at the multilateral level, through supporting the work of the United Nations in preventing and controlling crime, as well as through the cooperation with its partners of the Group of Seven major industrialized countries plus the Russian Federation (G-7/P-8) to coordinate efforts against transnational organized crime. The United States also participated in efforts to coordinate action against corruption, money-laundering and drug trafficking and in other areas relevant to organized transnational crime with the Organization of American States (OAS), the Council of Europe, EU and other relevant international organizations.

B. Action by the Secretariat

30. In compliance with the mandates received by the international community to study measures to prevent and control the fight against organized transnational crime, the Crime Prevention and Criminal Justice Division of the Secretariat began the development of a structured programme of activities intended to promote the full implementation of the Naples Political Declaration and Global Action Plan.

31. The Division has continued to collect and analyse information provided by Member States and relevant organizations with a view to informing the Commission about developments in the action taken at the international level against organized transnational crime. In addition to that ongoing work, the Division has undertaken a number of practical activities whose aim was to assist countries in need, verify the status of

international cooperation in the field and strengthen the ability of national criminal justice systems to deal with new and sophisticated forms of crime.

32. Since the adoption of the Naples Political Declaration and Global Action Plan, technical assistance and advisory services have been provided in the context of a number of initiatives. From 27 to 30 November 1995, the Division organized the first Regional Ministerial Workshop, held at Buenos Aires and hosted by the Government of Argentina. From 10 to 12 June 1996, the Division organized, jointly with the Organization for Security and Cooperation in Europe (OSCE) and in cooperation with the United Nations International Drug Control Programme (UNDCP), a seminar for five central Asian countries, entitled "Drugs and crime: new challenges". The seminar, held at Bishkek, was intended to examine ways to strengthen the prevention and control of organized transnational crime, including illicit drug trafficking, and to assess the needs for technical cooperation in the region. The participants expressed deep concern at the aggravation of the situation of organized transnational crime, including illicit drug trafficking, corruption and money-laundering, experienced throughout the region and emphasized the threat posed by those forms of criminal activity to government structures and democratic institutions and to the population in general. The seminar concluded that action was needed at both the national and international levels to allow the countries to react to organized crime. At the national level, an examination of the causes and conditions that facilitated the growth of organized crime should be undertaken, along with the creation of a database on organized crime activities and the expansion of mutual cooperation and assistance in criminal matters. At the international level, the participants felt that the United Nations and other relevant international organizations should strengthen the provision of technical assistance and advisory services to the countries of the region, and called for the acceleration of the process of developing an international convention against organized transnational crime.

33. In order to continue the process of regional consultations on the Naples Political Declaration and Global Action Plan, the Division will organize a regional ministerial meeting for Africa in 1997, jointly with the Government of Senegal and with the assistance of the Agency for Technical and Cultural Cooperation of the Government of France. The meeting will analyse the situation of organized crime in the region and will endeavour to set out policy options to prevent and control organized crime activities in Africa, in particular illicit trafficking, corruption and economic crimes.

34. Technical assistance to support the criminal justice system of countries in need also took the form of advisory and needs assessment missions, which were followed up by the formulation of project proposals to strengthen national law enforcement capacities and cooperation among States. Such proposals, for which funding is still sought, include one project designed to provide assistance in strengthening judicial cooperation among African States in their fight against organized transnational crime. That project will include a survey on transnational organized crime in Africa; a conference, to be attended by west African and other interested States, to initiate cooperation and practical action against organized transnational crime in the region; the implementation of a plan of action to establish criminal police coordinating units; and two subregional training seminars on action against organized crime. The importance of controlling the spread of organized crime in the region and enabling the national criminal justice systems to deal with the threat was also recognized by the development of a project that would encompass two training seminars in the application of the Convention on Mutual Assistance in Criminal Matters of the Economic Community of West African States (ECOWAS), with a focus on extradition and organized transnational crime, for judges, prosecutors and police officers from west African States.

35. Project proposals for institution-building and strengthening national capacities to prevent and control organized transnational crime were also developed and submitted to possible donors for funding. Generated as a result of missions carried out for the Division by the interregional advisers for crime prevention and criminal justice, the projects were designed taking into account the specific needs of the requesting countries. Their main objectives include assistance in drafting and implementing up-to-date legislation in the field of preventing and controlling organized transnational crime and associated criminal activities; assistance to

selected government departments in meeting problems raised by the legal reform process through training and the provision of short-term expertise; and strengthening of the criminal justice system capacity to fight organized crime, also in cooperation with international counterparts.

36. The Commission on Crime Prevention and Criminal Justice, at its fifth session, proposed the establishment of a central repository for information on legislation, regulatory measures, organizational structures designed to prevent and control organized transnational crime and bilateral and multilateral cooperation agreements. The implementation of this new mandate, endorsed by the Economic and Social Council in its resolution 1996/27, was immediately started by the Division with a view to initiating delivery by the end of 1997 of the services required within the framework of a systematic programme of activities.

37. The repository will be based on the information on national legislation, organizational structures and international cooperation arrangements that the Division has already collected and will continue to collect. The information and data will be systematized in a database format, using software and a framework similar to that on which UNDCP is relying for the purpose of the database being developed, jointly with the Division, in the context of the global programme on money-laundering. The information contained in the repository will be made available to Member States in non-electronic and electronic form through the United Nations Crime and Justice Information Network (UNCJIN) and the Internet home page of the Division, and will consist of multiple tables designed to group the available information in several categories, plus an index. Further, the repository will contain summaries of cross-referenced legislative texts and will be accompanied by brief commentaries and legislative history.

38. In order to assist countries in need and to render more operational its technical assistance activities, the Division, as requested by the Economic and Social Council in its resolution 1996/27, will also develop a training manual for specialized law enforcement and investigative personnel on action against organized transnational crime. The training manual would be designed taking into account differences in legal systems.

C. Action by other entities of the United Nations system, including the Crime Prevention and Criminal Justice Programme network

39. The African Institute for the Prevention of Crime and the Treatment of Offenders pointed out that a notable feature regarding organized transnational crime in Africa was the non-availability of reliable and comparative information. The African Institute, however, had been gathering information from African countries that demonstrated that the region was not immune to the transnationalization of criminal activities, especially economic and organized crime, illicit drug trafficking, money-laundering and illegal smuggling of goods and valuables. An alarming feature highlighted by the Institute was that, while the objectives of the criminal organizations remained essentially economic, they could represent an increasingly serious threat to the economy of a country and to democratic values and public morality. On the other hand, the economies of some African countries were crisis-ridden to the extent that Governments and financial institutions might not realistically discriminate in the type of funds they could accept. The Institute suggested that urgent measures be taken to facilitate the process of harmonization of laws, since differences in national legislation might impede successful action against organized crime, and to establish a framework for inter-state cooperation and coordination in compiling information, sharing intelligence, freezing or confiscating criminal assets and extraditing fugitives. Finally, the Institute proposed that a high-level seminar for policy makers in the field be organized to implement the provisions of the Naples Political Declaration and Global Action Plan.

40. The Australian Institute of Criminology was keeping the issue of organized transnational crime under study through its Sophisticated Crime Team, whose work had been reflected in various publications on transnational crime, money-laundering, computer crime and crime control.

41. The activities of the International Centre for Criminal Law Reform and Criminal Justice Policy continued to reflect the priority that the United Nations attached to organized transnational crime. The technical assistance programmes carried out by the Institute included segments on organized crime, corruption and money-laundering.

42. Although not directly concerned with the subject of organized transnational crime, the United Nations Environment Programme (UNEP) pointed out that its work on the broader subject of illegal activities affecting the environment included carrying out studies and initiatives in the context of the administration of various international instruments, such as the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, the Convention on International Trade in Endangered Species of Wild Fauna and Flora and the Lusaka Agreement on Cooperative Enforcement Operations Directed at Illegal Trade in Wild Fauna and Flora. The latter, in particular, had enabled the Programme to cooperate closely with ICPO/Interpol and other law enforcement bodies.

43. The International Civil Aviation Organization (ICAO) provided a number of international law instruments that deal with offences and other criminal acts committed on board aircraft or against the safety of civil aviation and contain provisions of some relevance to the subject matter, in particular those referring to hijacking and the manufacture of unmarked plastic explosives.

44. The Universal Postal Union (UPU) has recently signed a number of memoranda of understanding with other international organizations, including ICPO/Interpol and the Customs Cooperation Council (also known as the World Customs Organization), with a view to combating crime committed via postal services, and that it had created a postal security action group to address all matters concerning postal security, including preventing and controlling fraud and crime.

D. Action by intergovernmental and non-governmental organizations

45. The Caribbean Community (CARICOM) regretted that, in the absence of a central repository of regional information on the issue at hand, it was not in a position to provide accurate information. However, on the occasion of the Regional Meeting on Drug Control Cooperation, convened by UNDCP at Bridgetown from 15 to 17 May 1996, it had been recognized that there was a major gap in the region in the area of information gathering and analysis on drug trafficking and other criminal activities carried out by organized transnational crime.

46. CIS had undertaken a number of initiatives for the drafting of multilateral treaties on action to combat transnational organized crime, since CIS member States were experiencing a significant increase in serious crime of a transnational nature committed by organized criminal groups. Among the criminal offences committed by such groups were illicit drug trafficking, money-laundering, trafficking in arms and military equipment, economic crime, car theft, counterfeiting of currency and contract killing. CIS countries had realized the serious threat posed to their social, political and economic systems by criminal aggression and they were developing defensive measures, which included law enforcement cooperation, harmonization of existing criminal laws and drafting of new legislation, and multilateral treaties. Work was also being carried out to strengthen the capacity of law enforcement agencies and to conduct studies on problems associated with organized crime, with a view to preparing training curricula and manuals for law enforcement personnel and organizing conferences and meetings of policy makers and experts to exchange views and information on criminal phenomena and methods to prevent and control organized crime.

47. The Commonwealth Secretariat was compiling a collection of national laws of its members designed to assist in preventing and controlling money-laundering by providing legislative precedents for countries that needed them and information on issues relating to investigation, prosecution and international cooperation.

48. In connection with the issue of multilateral treaties instrumental in the fight against organized transnational crime, the Council of Europe pointed to a number of conventions prepared and adopted within the framework of the Council of Europe, including the European Convention on Extradition and its Additional Protocols, the European Convention on Mutual Assistance in Criminal Matters and its Additional Protocol, the European Convention on the International Validity of Criminal Judgements, the European Convention on the Transfer of Proceedings in Criminal Matters, the European Convention on the Suppression of Terrorism, the Additional Protocol to the European Convention on Information on Foreign Law, the European Convention on the Control of the Acquisition and Possession of Firearms by Individuals, the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and the Agreement on Illicit Traffic by Sea.

49. The Financial Action Task Force on Money-Laundering was cooperating closely with other international organizations on the issue of money-laundering. In particular, the Task Force was carrying out work with the Crime Prevention and Criminal Justice Division on the money-laundering issues covered by the implementation of the Naples Political Declaration and Global Action Plan, and was contributing to the anti-money-laundering database being developed by the UNDCP and the Division, in the context of the global programme on money-laundering, developed and currently being implemented by the two entities.

50. The International Association of Penal Law (IAPL) indicated that its next world congress, to be held at Budapest in 1999, would focus on the challenge posed to criminal law by organized crime. With a view to preparing for the world congress, the national sections of the Association present in some 90 countries were organizing regional pre-congress meetings so as to identify the most important issues related to the subject.

51. In 1992, the International Chamber of Commerce (ICC) established a specialized division, the Commercial Crime Services, to combat the increase in commercial fraud, malpractice in the public and private sectors, forgery of documentation and the theft of cargoes, all crimes that require a high degree of organization and specialization in order to be carried out. The approach proposed by the division included vetting, authentication of documents, investigations and training.

52. ICPO/Interpol described several initiatives being carried out on various organized crime-related topics. In particular, ICPO/Interpol continued to study various forms of organized transnational crime, including illicit drug trafficking, trafficking in stolen vehicles, money-laundering and economic fraud. It also continued to organize yearly symposiums on organized crime, attended by law enforcement officers, whose main aim was to find ways of tackling organized crime by concentrating on collecting, processing, analysing and disseminating intelligence on international organized crime groups through the ICPO/Interpol network. The ICPO/Interpol Organized Crime Group had the task of coordinating symposiums on international organized crime groups, analysing data provided by participating countries and preparing reports on criminal connections and developing a methodology to identify the structure, operations and modus operandi of organized transnational crime groups.

53. The Organization of American States (OAS) pointed out that the Inter-American Convention on Mutual Assistance in Criminal Matters and its Protocol was a multilateral instrument, developed within the OAS framework, which dealt with issues related to organized transnational crime.

54. The South Pacific Forum pointed out that since 1994 a law enforcement programme had been started, following the 1992 declaration on law enforcement cooperation by the South Pacific Forum leaders. The programme, focusing primarily on legislative drafting assistance and on training for law enforcement personnel dealing with drug trafficking, money-laundering and economic crime, assisted customs and police agencies to improve their drug enforcement capabilities and to increase the level of communication, intelligence exchange and cooperation among regional agencies.

E. Other major international initiatives

55. Positive signs of coordinated approach and international cooperation, in particular through multilateral mechanisms, have begun to appear in the fight against organized transnational crime. Two different forums, each having its own particular significance, recently expressed their concern at the aggression of organized crime. The members of the Group of Seven major industrialized countries, on the occasion of their summit held at Lyons, France, from 27 to 29 June 1996, welcomed the work of the Senior Expert Group on Transnational Organized Crime, appointed at the Halifax summit to review how to counter the rapid development of that form of crime, and committed themselves to taking a number of practical measures to prevent and control organized crime, in particular by mobilizing the other members of the international community and supporting existing institutions that deal with the issue, including the United Nations, ICPO/Interpol and the World Customs Organization (see A/51/208-S/1996/543, annex I). The Senior Expert Group, which was also asked to ensure the active follow-up of the implementation of the 40 recommendations it had prepared, continued to meet and to examine various issues relating to international action against organized crime, including the question of the elaboration of a convention against organized transnational crime and the work that is being carried out by the Commission on Crime Prevention and Criminal Justice with a view to increasing cooperation and coordinated action between the Group of Seven and the relevant United Nations entities.

56. Similarly, the Group of 77, on the occasion of the twentieth annual meeting of Ministers for Foreign Affairs, held at United Nations Headquarters on 27 September 1996, acknowledged that the new forms of transnational criminal activities, in particular drug trafficking, called for enhanced international cooperation and required the formulation of new strategies that, respectful of the sovereignty of States, could deal more effectively with the operations of those involved in illicit drug and arms trafficking, money-laundering and other criminal activities (see A/51/471, annex).

II. PROPOSALS FOR THE CONSIDERATION OF THE COMMISSION

57. The follow-up to the Naples Political Declaration and Global Action Plan has generated both a focused discussion on the issue of organized transnational crime, as well as a wealth of information that would need systematization and analysis to be transformed into practical tools, in particular model legislation, training for law enforcement and advisory assistance for the reform of the criminal justice system.

58. It has also become clear that the problems created for countries by organized transnational crime may be solved only through the adoption and implementation of measures that could comprise up-to-date legislation to deal with this criminal phenomenon; increased capacity of criminal justice systems to enforce existing legislation and control organized transnational crime; strengthened ability to gather and analyse reliable information on organized crime activities, with a view to devising preventive and control policies; and more effective inter-state cooperation when investigating, prosecuting or judging organized transnational crime offences.

59. Although organized crime has historically been a difficult issue to study and investigate for both law enforcement officers and researchers, because of its illegal character and the secrecy it requires to preserve its criminal foundations, slowly, and with many difficulties, a body of useful information is being put together by the United Nations and made available to Member States so that they may evaluate the threat posed by organized transnational crime and the capacity of law enforcement and criminal justice systems to respond to it. However, organized transnational crime being an ever-changing phenomenon, such a body of information will only retain its effectiveness if it is constantly updated and reviewed by the United Nations with the assistance of as many contributors as possible.

60. The importance attached by the international community to the fight against organized transnational crime, in particular during the celebration of the fiftieth anniversary of the United Nations, during sessions of the Commission on Crime Prevention and Criminal Justice and in various other high-level forums, can be translated into concrete action through the further development of a comprehensive programme of work. Building on the work already under way, the Commission may wish to consider the following activities, as part of a programme of work to be implemented within the biennium 1998-1999, to assist the international community in consolidating and strengthening action against organized transnational crime:

(a) Maintenance and expansion of the central repository, with a view to updating it on a yearly basis. This activity would be crucial to making the repository into a truly useful tool for the international community to monitor developments in legislation, policies and strategies against organized transnational crime;

(b) Provision of assistance to Member States to collect and systematize information and data. This may be carried out by the Division, which would identify and engage experts from all regions to design a comparative study on the situation of organized crime to be implemented in selected countries and regions by national consultants. The information collected by the national consultants for the study would be declared valid by concerned Member States before being used in the study or entered into the repository. The results of the study, which would also benefit from input provided by the interregional and regional institutes on crime prevention and control affiliated or associated with the United Nations, would be submitted to an expert group for finalization and for the formulation of appropriate recommendations for consideration by the Commission at its eighth session;

(c) The Division could also be mandated to develop model legislation and training manuals for law enforcement personnel, which would be reviewed and finalized by an expert consultation process, and would form the backbone of the Division's advisory services and training activities.

61. The structure of a work programme on organized transnational crime should consist of three main elements: reliable knowledge for informed decision-making; provision of assistance in the legislative and regulatory fields; and advisory services and training. The activities included in the proposed work programme would need to be carried out in a complementary way and with a forward-looking approach, as they represent the skeleton of any rational and coordinated action against organized crime at the international level.

62. Subject to availability of extrabudgetary resources, the Division could also be mandated to provide training and advisory services and to formulate projects for those countries requiring assistance in implementing the Naples Political Declaration and Global Action Plan. In particular, assistance may be provided at the regional or subregional levels, taking into account common problems and requirements and on the basis of prior experience gained by the Division on the occasion of the 1995 Buenos Aires Regional Ministerial Workshop and the 1996 subregional meeting at Bishkek.

63. The Commission would be apprised of progress in the implementation of the proposed activities at its seventh session and would thus have the opportunity to decide on the further development of the programme of work at that time.

Annex

LIST OF ENTITIES RESPONDING TO THE SECRETARY-GENERAL'S REQUEST FOR INFORMATION

1. *United Nations*

Department for Development Support and Management Services
Division for the Advancement of Women

Economic Commission for Latin America and the Caribbean

United Nations Conference on Trade and Development
United Nations Environment Programme
United Nations Centre for Human Settlements (Habitat)
United Nations University

European Institute for Crime Prevention and Control, affiliated with the United Nations
African Institute for the Prevention of Crime and the Treatment of Offenders

Australian Institute of Criminology
International Centre for Criminal Law Reform and Criminal Justice Policy

International Civil Aviation Organization
World Bank
Universal Postal Union
International Maritime Organization

2. *Intergovernmental and non-governmental organizations*

African Development Bank
Caribbean Community
Commonwealth of Independent States
Commonwealth Secretariat
Council of Europe
Financial Action Task Force on Money-Laundering
International Association of Penal Law
International Chamber of Commerce
International Criminal Police Organization (ICPO/Interpol)
International Organization for Standardization
International Social Security Association
Japan Federation of Bar Associations
Law Association for Asia and the Pacific
Organization of American States
Organization for Economic Cooperation and Development
South Pacific Forum

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INTERNATIONAL COOPERATION IN COMBATNG TRANSNATIONAL CRIME: SMUGGLING OF ILLEGAL MIGRANTS

Measures to combat the smuggling of illegal migrants

Report of the Secretary-General

Summary

The present report brings to the attention of the Commission on Crime Prevention and Criminal Justice additional information received from Governments regarding measures and initiatives taken or envisaged to combat the smuggling of illegal migrants and relevant action taken within the United Nations system. It is the fourth in a series of reports on the subject prepared in pursuance of relevant resolutions of the General Assembly and the Economic and Social Council.

*E/CN.15/1997/1.

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INTRODUCTION

1. In the present report, the Secretary-General brings to the attention of the Commission on Crime Prevention and Criminal Justice additional and/or new information received from Governments regarding measures and initiatives taken or envisaged to combat the smuggling of illegal migrants. The attention of the Commission is drawn to the previous reports of the Secretary-General on the subject submitted to the General Assembly (A/49/350 and Add.1) and to the Commission on Crime Prevention and Criminal Justice (E/CN.15/1995/3 and E/CN.15/1996/4 and Add.1).

2. The present report has been prepared in pursuance of the requests for the provision by States of information on the measures taken to combat the smuggling of illegal migrants and for the continued review of that information by the Commission on Crime Prevention and Criminal Justice contained in General Assembly resolutions 48/102 of 20 December 1993 and 51/62 of 12 December 1996 and Economic and Social Council resolutions 1994/14 of 25 July 1994 and 1995/10 of 24 July 1995.

I. ACTION TAKEN WITHIN THE UNITED NATIONS SYSTEM

3. In its resolution 51/62, entitled "Measures for prevention of the smuggling of aliens", the General Assembly requested the Commission on Crime Prevention and Criminal Justice to consider giving attention to the question of the smuggling of aliens at its sixth session in order to encourage international cooperation to address the problem within the framework of its mandate, and requested that the text of the resolution be transmitted to all Member States and to relevant specialized agencies and intergovernmental organizations. In pursuance of that request, the Secretary-General transmitted the text of the resolution by means of a note verbale dated 27 January 1997.

4. Of special relevance in terms of recent legislative action is the United Nations Declaration on Crime and Public Security, adopted by the General Assembly in its resolution 51/60. Articles 1 and 7 (d) of the Declaration specifically refer to organized trafficking in persons and to organized criminal smuggling of persons across national borders, respectively.

5. At its fifth session, in discussions on transnational organized crime in the context of its review of priority themes, the Commission outlined some of the manifestations of and trends in the smuggling of illegal migrants observed in different parts of the world. The Commission noted that an increasing number of States were being used as transit points for such activity and that the time it took for smuggled migrants to move on from the

transit points was becoming longer. In some countries of destination, violence against migrants, trafficking of women and violence against trafficked women had become serious problems.[1]

6. Issues related to the smuggling of illegal migrants are being dealt with by various policy-making bodies and programmes within the United Nations system, from different programme perspectives, including human rights, the advancement of women, children's rights, refugees and migration and development.

7. The attention of the Commission is drawn, in particular, to recent action taken on violence against women migrant workers and on trafficking in women and girls, in General Assembly resolutions 51/65and 51/66 of 12 December 1996, respectively. In its resolution 51/65, the Assembly requested all relevant bodies and programmes of the United Nations system, when addressing the issue of violence against women, to give particular attention to the issue of violence perpetrated against women migrant workers, and to provide their views and comments to the Secretary-General for inclusion in his report to it at its fifty-second session. In its resolution 51/66, the Assembly welcomed the consideration given to the problems of trafficking in women and girls by the Commission on Crime Prevention and Criminal Justice, and invited the Commission to continue to consider appropriate measures to address the issue.[2]

8. The attention of the Commission is also drawn to General Assembly resolution 51/69 of 12 December 1996 on the follow-up to the Fourth World Conference on Women, held in Beijing from 4 to 15 September 1995, and full implementation of the Beijing Declaration[3] and Platform for Action,[4] in which the Assembly invited once again all functional commissions of the Economic and Social Council, within their mandates, to take due account of the Platform for Action and to ensure the integration of gender aspects in their respective work.[5] In that context, it may be recalled that the Platform for Action, in its areas of priority concern, focuses on violence against women (strategic objectives D.1-3) and discrimination against the girl child (strategic objective L.1-9), both of which groups of objectives encompass issues that concern violence against, abuse and exploitation of migrant females, female migrant workers and trafficking in females.

9. Acts of trafficking in women and children and of violence against women migrant workers fall within the framework and perspective of crime prevention and criminal justice and within the scope and definition of violence against women and the measures being proposed by the Secretary-General to eliminate it on that basis. The relevant report of the Secretary-General, containing proposed revised measures, strategies and activities in the field of crime prevention and criminal justice for the elimination of violence against women, is before the Commission (E/CN.15/1997/11).

10. Of particular relevance in the human rights field are Commission on Human Rights resolution 1996/18 of 11 April 1996 and Subcommission on Prevention of Discrimination and Protection of Minorities resolutions 1996/10 of 23 August 1996, entitled "Migrant workers", and 1996/12 also of 23 August 1996, entitled "Report of the Working Group on Contemporary Forms of Slavery", the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, adopted and opened for signature, ratification and accession by the General Assembly in its resolution 45/158 of 18 December 1990, and the draft programme of action on the traffic in persons and the exploitation of the prostitution of others developed by the Working Group on Contemporary Forms of Slavery (see E/CN.4/Sub.2/1995/28/Add.1). (See also General Assembly resolution 51/85 of 12 December 1996 on the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.)

11. At its fifty-second session, the General Assembly will consider a report of the Secretary-General, to be submitted pursuant to its resolution 50/123 of 20 December 1995, that will contain concrete proposals on ways and means to address the issue of international migration and development, including aspects related to objectives and modalities for the convening of a United Nations conference on international migration and development. Relevant organizations and programmes of the United Nations system were called upon to address the issue and to submit their views to the Secretary-General. (See also Assembly resolution 49/127 of

19 December 1994 on international migration and development.) At its organizational session for 1997, the Economic and Social Council will consider international migration and development as a theme of its agenda for 1997. The attention of the Commission is drawn to other relevant developments and initiatives on matters of international migration and development, in particular the recommendations of the United Nations Conference on Human Settlements (Habitat II), held at Istanbul from 3 to 14 June 1996, which, *inter alia*, addressed shelter-related questions concerning migrants.[6]

12. Attention is drawn to the International Conference on Migration and Crime: Global Problems and Responses, organized at Courmayeur, Italy, from 4 to 6 October 1996 by the International Scientific and Professional Advisory Council in cooperation with the Crime Prevention and Criminal Justice Division. That Conference, *inter alia*, focused on the curtailment of the so-called "double victimization" of migrants and refugees. During the discussion, it was noted that special programmes had to be implemented in countries of origin and in host countries that would involve all relevant agencies, personnel and services (criminal justice, victim, immigration, consular, diplomatic) and lead to better communication, information, training and awareness-raising processes. Special efforts had to be made, through education and the media, to sensitize the public, extend better protection and other measures and reduce the violence, abuse and exploitation related to trafficking in persons, migration and refugee situations and the criminogenic problems engendered by those practices.

II. GOVERNMENT INITIATIVES CONCERNING CRIMINAL LAW AND OTHER ACTION BY THE CRIME PREVENTION AND CRIMINAL JUSTICE SYSTEM

13. In response to the request from the Secretary-General, 19 States provided new or additional information on criminal law and other action by the crime prevention and criminal justice system taken or envisaged to combat the smuggling of illegal migrants: Belarus, Colombia, Croatia, Cyprus, Czech Republic, Estonia, Finland, Iceland, India, Italy, Lebanon, Mexico, Morocco, Niger, Saint Lucia, Spain, Tunisia, Turkey and United States of America. This brings to 74 the total number of replies received from Governments and included in the series of reports.

Belarus

14. The entry and exit of migrants, refugees, foreign nationals and stateless persons into and from Belarus are governed by the Belarus Legal Status of Foreign Nationals or Stateless Persons in the Republic of Belarus Act of 1993; the Belarus Refugees Act of 1995; the Citizenship of the Republic of Belarus Act of 1991; and the Presidential Decree of 1994. There are also legal provisions on combating illegal migration in the Basic Law of the Republic on the National Boundaries of the Republic, Border Control Forces of the Republic and on Operational and Investigative Activities.

15. The borders in the west and south of Belarus are actively used for illegal transit of migrants to western countries. There are also large-scale attempted illegal crossings of the eastern border by migrants, mainly from south-east Asia and Africa. From 1994 to the present, over 3,000 illegal migrants from 54 countries were arrested at the border of Belarus. A special service has been set up within the Border Control Forces to combat organized crime on the border, including the smuggling of illegal migrants.

16. From 1994 to the present, that service has successfully prevented attempts to cross the border illegally by over 1,000 would-be offenders from Asia and Africa. The organization of illegal entry of so-called "live goods" has intensified and the criminal organizations that manage the process are taking varied and extremely clever steps to increase secrecy and to ensure the safety of their operations in transporting groups of migrants across borders. Their operations have become a highly organized, coordinated and dangerous criminal activity. It has been reliably established that these criminal organizations take pains to gather the information necessary for

their activities and to monitor all changes in political conditions, national legislation and the organization and working methods of law enforcement agencies and national border guards. The measures taken by the Government of Belarus to prevent illegal border crossings have prompted criminal syndicates to find safer means and opportunities for moving persons to the West. In general, this has put an end to mass illegal migration, although some activity has transferred to "green" borders. Most often, organizers of the smuggling operations prepare counterfeit documents using forged blank passports of countries of the Commonwealth of Independent States (CIS) and other countries.

Colombia

17. Colombia reported on the creation of a committee to study the situation regarding trafficking in and exploitation of women and children.

Croatia

18. In Croatia, penal law defines the illegal crossing of the state border as a criminal act. Sanctions apply to any individual who deals in illegal trafficking or who facilitates an illegal crossing of the border. The numbers of violations of criminal law and of individuals sentenced for those violations have increased significantly over the last three years.

Cyprus

19. Cyprus reported that illegal immigration was low in the part of the Republic under its control. The number of illegal immigrants arriving in Cyprus during recent years usually ranged from 20 to 50 a year. The number increased substantially in 1996, however, and there was evidence that most such persons arrived in the country by boat from neighbouring countries, in particular, Lebanon and the Syrian Arab Republic, after paying some $500 to $1,000, each to the owner of the vessel of passage. Usually violators are arrested within days of their arrival and brought to justice under the Aliens and Immigration Law. If convicted, transgressors are sentenced to imprisonment for a term not exceeding 12 months or to a fine not exceeding 1,000 pounds or to both. Cyprus considers its Aliens and Immigration Law, although enacted some time ago, to be in conformity with the law in effect internationally and to be satisfactory in terms of national needs for the time being.

Czech Republic

20. The Czech Republic reported measures to control its border points more strictly in terms of the entry of foreigners. In order to protect borders effectively it is necessary for countries to enter into bilateral and mulitlateral agreements on transborder police cooperation to deal with organized or unorganized attempts at illegal migration; set up an information support system for flexible cooperation between internal and external security forces; train police officers and embassy staff regarding counterfeit documents; and pay close attention to security aspects of the issuance of visas. Cooperation between the consular sections of Czech embassies abroad and the Directorate of Foreigners and Border Police has been developing successfully.

21. The Czech Republic further reported that, as States signatories to the Schengen Agreement do not perform checks on their international borders, the activity of the Czech immigration services has focused on inland checks and on cooperation between liaison officers who work directly with the immigration services of partner States. Liaison officers also deal with issues related to cross-border crime. All the parties concerned assess this form of cooperation very positively. A new draft amendment to the law on residence of foreigners, approved by the Government and now before Parliament, would set strict conditions for the residence of foreigners in the Republic.

Estonia

22. Estonia reported that its cases of illegal immigration had proved the importance of legal assistance treaties between countries. In 1994, a protocol on trilateral cooperation was concluded between the border guards of Estonia, Finland and the Russian Federation concerning the guarding of borders on the Gulf of Finland and surrounding harbours. Within that framework, a number of activities are being carried out, including monthly meetings and exchange of information. Aid was received from the Estonian Bureau of the International Criminal Police Organization (ICPO/Interpol).

23. A Commission on Illegal Immigration has been established to develop legislation to regulate problems of illegal migration and refugees. In 1995 and 1996, the border guard administration enhanced its action against illegal migration by developing cooperation among relevant agencies and furnishing border points with technology and increased information, which has lead to a more effective control of the border. Seminars and training courses were arranged and experience was exchanged among specialists.

Finland

24. Finland reported that arrangement of illegal entry was punishable under the Aliens Act by a fine or imprisonment of up to two years. The Act covers bringing or attempting to bring an alien into the country in the known absence of a passport, visa or residence permit required for entry, arranging or providing transport for the alien or supplying another person with a false or counterfeit passport, visa or residence permit for use in conjunction with entry.

25. The smuggling of illegal migrants to or through Finland, although on a smaller scale than that experienced by other European countries, was reported to be increasing slightly. Illegal migration was seen as connected with international organized crime, for example, drug trafficking and prostitution. In recent years, the Government has paid particular attention to combating such activities and has aimed at improving international cooperation, including through information exchange, and at upgrading the preparedness of police and border guards by developing their administration, equipment and training. The Government participated in a number of events on the matter within the purview of the European Union (EU), the Budapest Group and the European police force (EUROPOL).

26. Finland also made reference to a 1995 report on the smuggling of illegal migrants in the Baltic Sea area prepared by the European Institute for Crime Prevention and Control, affiliated with the United Nations,[7] which emphasizes that the increase in smuggling cannot be combated with measures taken by individual States and that practical cooperation is needed in border areas between the police, customs and immigration authorities. Bilateral and multilateral agreements are essential, as they make direct contacts possible between lower levels of authority and under certain conditions may also give them competence to act on the territory of another State.

Iceland

27. Iceland reported having had no particular problem as regards smuggling of illegal migrants that required specific legislative or other measures from the authorities in recent years, during which time there had been no criminal cases brought before the courts. Relevant legislation consists of acts related to the supervision of foreign nationals enacted in 1965. Violations are punishable by fines, custody or imprisonment of up to six months. Heavier penalties may be applied under other statutes for acquiring a passport or another travel document in an unlawful manner by providing false information or intentionally concealing facts or contributing to incorrect information on official documents; acquiring more than one passport or travel document for an unlawful purpose; altering or removing parts of official travel documents for an unlawful purpose; entering or exiting the country without reporting to passport control authorities; or taking part in the concealment of a foreign national. A person contributing to a foreign national's illegal entry into the country, in addition to being

liable to punishment, is obliged to pay the expenses incurred by the State resulting from illegal residence in Iceland and repatriation.

India

28. India provided detailed information about its legal enactments and statutory provisions in combating the smuggling of illegal migrants. Entry of migrants into India is regulated by passport and visa. The basic law that regulates the entry of foreigners is the Foreigners Act of 1946. The Foreigners Order of 1958 regulates border entries and the Order of 1971 makes it mandatory to report the arrival or presence of any foreigners in one's household. Recent initiatives have been made to seal the borders to illegal migration flow, especially as regards the detection of forged documents and entries in coastal areas. A very close watch by government agencies was under way to uncover operations concerning migration of women and children under the pretext of marriage.

Italy

29. The law in Italy imposes a term of imprisonment ranging from one to three years and a fine of up to 30 million lire. A term of imprisonment ranging from 4 to 12 years and a fine of from Lit 30 to 100 million are prescribed when the activity is carried out for profit by three or more individuals in association or when it relates to the entry of five or more persons. Where the activity aims at recruiting persons for purposes of prostitution or at favouring the entry of children to take on exploitable illegal activity, violations are punishable by a term of imprisonment ranging from 5 to 15 years and a fine of from Lit 50 to 200 million. Any vehicles used in the illegal activity are forfeited.

30. Italy may issue a temporary permit to non-EU citizens who may be under serious threat owing to statements made during criminal proceedings for crimes in relation to procurement. This aims at enhancing cooperation among investigatory bodies concerned with organized crime. Further sanctions exist for activities aimed at the exploitation of clandestine workers: a term of imprisonment of from two to six years and a fine of from Lit 10 to 50 million for each worker hired. Under the Italian legal system, aliens illegally entering the territory of the State cannot be prosecuted. Only administrative measures may be taken to identify and then expel the individual from the territory.

Lebanon

31. Lebanon reported that all those entering the country illegally were subject to a term of imprisonment ranging from one month to three years, followed by deportation.

Mexico

32. Mexico reported that a proposal had been made to amend the General Population Act through the incorporation of tougher criminal legislation against the smuggling of illegal migrants. The proposal was currently before the legislature for discussion and approval and could possibly be substantially modified. At present, one of the articles of the Act provides for the penalty of imprisonment for alien smuggling, which it classifies as a serious offence, as does the Federal Code of Criminal Procedure.

Morocco

33. Morocco provided information on agreements entered into that enhance its bilateral cooperation on the matter. An agreement on the movement of persons, taking the form of an exchange of letters between the Governments of Morocco and France signed in 1983, provides that the Moroccan authorities will ensure that aircraft or ships take on board for transport to France only passengers in possession of documents specified in the agreement as legal. The accession of Morocco in 1959 to the international convention relating to illegal

passage established closer cooperation on clandestine migration and lead to the adoption, by means of bilateral agreements, of appropriate measures for the readmission of its nationals in breach of regulations. Morocco concluded an agreement with Spain in 1992 relating to the movement of persons in transit and the readmittance of foreigners effecting illegal entry into the country. In pursuance of that agreement, both countries have stationed border guards along their coasts. In October 1996 Morocco and Spain decided to establish joint committees whose responsibilities would include the identification of illegal migrants and consideration of ways of improving surveillance of them. Dialogue is under way in the framework of the association agreement between Morocco and EU on problems relating to clandestine emigration and conditions for the return of persons in breach of regulations.

Niger

34. The Niger submitted the text of a 1981 decree regulating the conditions for the entry into and residence in the Niger of aliens. It includes provisions governing the movement of aliens, refusal of entry and expulsion. The 1980 ordinance relating to the entry into and residence in the Niger of aliens, *inter alia*, specifies the imposition of penalties and conditions of expulsion from the country.

Saint Lucia

35. Saint Lucia reported that no criminal law or other initiatives had been taken to combat alien smuggling.

Spain

36. Spain reported that its specialized police training was proceeding well. A 1996 report of the State Attorney's Office on the work of the Department of Public Prosecution during 1995 stated that.the existence and the effective and specialized functioning of the immigration services within the prosecution authority were promoting and facilitating liaison with government agencies, especially with the Immigration Operations Unit of the National Police Force. A new penal code, adopted by constitutional law in 1995, concerned offences against workers' rights and devoted two of its articles to the prevention of the illegal immigration of workers. One of its articles penalizes any individual engaging in the smuggling of illegal workers. The other specifically penalizes the aiding or abetting, by any means, of clandestine immigration of workers into Spain. It also penalizes the use of bogus employment offers or arrangements or the like to secure or facilitate the emigration of any person to another country, the statutory definition of such acts being contained in the former penal code of 1973.

Tunisia

37. Tunisia, while not facing a problem as regards smuggling of illegal migrants, in 1968 passed specific legislation on the status of foreigners in Tunisia that contains penalties against any person who knowingly, directly or indirectly, assists or attempts to assist the illegal entry to, exit from, transit through or residence of a foreigner in Tunisia.

Turkey

38. Turkey provided information on legislation to prevent the organized smuggling of illegal foreign migrants under the Employment Act Law and the Penal Code. Those entering the country illegally were liable to a period of imprisonment of one to six months. The licences of companies involved in the illegal transport of passengers or merchandise could be rescinded.

United States of America

39. The United States of America reported that its four-part strategy to control illegal immigration called for regaining border control; protecting American workers and removing the "job magnet" through work-site enforcement; removing criminal and other deportable aliens; and securing the resources necessary to support the strategy. Toward those ends, legislative changes were under way to improve government enforcement capabilities. The law governing the illegal smuggling of persons, set out in the Immigration and Nationality Act, under "Bringing in and harbouring certain aliens", provides for criminal penalties, imprisonment and/or fines for the crimes of bringing or attempting to bring aliens into the country at other than a port of entry, transporting or harbouring undocumented aliens and encouraging or inducing aliens to come to the country in violation of the law. It allows for fining of a carrier for the knowing transportation of improperly documented aliens, by vessel, vehicle or aircraft, and for seizure and forfeiture.

40. Under the 1996 Anti-terrorism and Effective Death Penalty Act, the Attorney-General of the United States expanded the authority to expedite the exclusion and deportation of aliens for document fraud or lack of proper documents. However, the Government is seeking legislative changes that would greatly improve its ability to repatriate aliens brought in on board smuggling vessels when the Attorney-General determines that the number or circumstances of aliens en route to or arriving in the country present an "extraordinary migration situation". Pending immigration bills would legislate new offences of alien smuggling punishable by imprisonment for more than one year and penalties would be increased for alien-smuggling offences, up to 10 years for a first or second offence and up to 15 years for subsequent offences. Substantial funds will provide for new positions across relevant agencies to increase the capacity to detain and remove criminal and other "deportable aliens" from the United States and to control the borders more effectively.

III. ACTION REQUIRED BY THE COMMISSION ON CRIME PREVENTION AND CRIMINAL JUSTICE

41. From 1994 until the present, a series of reports on the illegal smuggling of migrants has been submitted by the Secretary-General, containing information from 74 States and five organizations of the United Nations system (see also A/49/350 and Add.1, E/CN.15/1995/3 and E/CN.15/1996/4 and Add.1).

42. The Commission may now be in a position to consider whether the information acquired from States and presented thus far is sufficient as a basis for determining the course of future international action on the matter. That information concerns criminal law and other measures taken and/or envisaged by Governments and their relevant agencies to combat the illegal smuggling of aliens.

43. Additional information might be sought in order to discern patterns of transborder smuggling of migrants and the various criminogenic factors involved. In that way, the Commission would be apprised not only of the measures taken or envisaged by States to combat the problem, but also of the actual forms and dimensions of the problem.

44. On the basis of both kinds of information, the Commission might then consider devising an effective approach that criminal justice systems might adopt to combat the illegal smuggling of migrants, for example, taking more compatible and better harmonized countermeasures, in terms of policy and in practical operations, at the national, regional and international levels. Such an approach should be based on universally acceptable policy perspectives, clearly defined strategies and the development of practical technical measures aimed at upgrading the capacity of criminal justice systems to combat this particular form of criminality, bearing in mind the nature and extent of trafficking operations. The safeguarding of national sovereignty and security, as well as border integrity, would be central to any such approach, as would considerations of upholding internationally accepted human rights standards and norms.

45. In determining future measures that might be taken to combat trafficking in and smuggling of migrants from the perspective of crime prevention and criminal justice, the Commission may also wish to consider how best to integrate its action, as far as possible, with the activities of other concerned bodies and programmes, in particular those within the United Nations system.[8]

Notes

[1]See *Official Records of the Economic and Social Council, 1996, Supplement No. 30* (E/1996/30 and Corr.1-3), chap. II, para. 23.

[2]See the report of the Secretary-General on traffic in women and girls (A/51/309), in which, *inter alia*, in paragraphs 43 to 45, he reports on approaches and measures of the Commission to address trafficking; and on violence against women migrant workers (A/51/325), in which, *inter alia*, in paragraphs 12 to 15, he reports on action taken by organizations of the United Nation system on the situation of women migrant workers; and the report of the Secretary-General to the Economic and Social Council on violence against women migrant workers (E/1996/71).

[3]A/CONF.177/20 and Add.1, chap. I, resolution 1, annex I.

[4]Ibid., annex II.

[5]See the report of the Secretary-General on the Convention on the Elimination of All Forms of Discrimination against Women on follow-up to the Fourth World Conference on Women (A/51/277, paras. 5-9).

[6]See the *Report of the United Nations Conference on Human Settlements (Habitat II), Istanbul, 3-14 June1996* (A/CONF.165/14).

[7]Christopher J. Ulrich, *Alien-smuggling and uncontrolled migration in northern Europe and the Baltic region* (ISSN 1236-8245), HEUNI paper No. 7.

[8]These entities are the following: (a) United Nations departments and programmes: the Department for Policy Coordination and Sustainable Development and its Division for the Advancement of Women, and the Centre for Human Rights of the Secretariat, the Office of the United Nations High Commissioner for Refugees, the United Nations Children's Fund, the United Nations Development Fund for Women, the International Research and Training Institute for the Advancement of Women and the United Nations International Drug Control Programme; and (b) functional commissions of the Economic and Social Council: the Commission on Population and Development, the Commission on Human Rights and its Subcommission on Prevention of Discrimination and Protection of Minorities and the Commission on the Status of Women.

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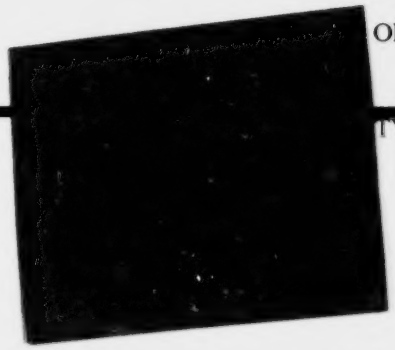

COMMISSION ON CRIME PREVENTION
AND CRIMINAL JUSTICE
Sixth session
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INTERNATIONAL COOPERATION IN COMBATING TRANSNATIONAL CRIME: ILLICIT TRAFFICKING IN MOTOR VEHICLES

Measures for the prevention and suppression of illicit trafficking in motor vehicles

Report of the Secretary-General

Summary

The present report provides an overview of the dimensions of illicit trafficking in motor vehicles and a summary of the responses received from States and relevant organizations pursuant to Economic and Social Council resolution 1995/27. It also highlights recent initiatives to strengthen international cooperation against this widespread type of crime, including the conference on Theft of and Illicit Trafficking in Motor Vehicles, held at Warsaw on 2 and 3 December 1996, the report of which is annexed to the present report.

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INTRODUCTION

1. On 24 July 1995, the Economic and Social Council adopted resolution 1995/27, on the implementation of the resolutions and recommendations of the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Cairo from 29 April to 8 May 1995. In section II, paragraph 1, of that resolution, the Council requested the Commission to consider measures on the prevention and suppression of illicit trafficking in motor vehicles and requested the Secretary-General to seek the views of Governments and relevant organizations on the matter and to report to the Commission at its sixth session.

2. Pursuant to resolution 1995/27, the Secretariat requested the views of States and relevant organizations on the issue of the prevention and suppression of illicit trafficking in motor vehicles. As at 19 February 1997, replies had been received from Argentina, Australia, Belarus, Brazil, Brunei Darussalam, Colombia, Cyprus, Estonia, Finland, France, Germany, Greece, Guyana, India, Israel, Italy, Japan, Kuwait, Libyan Arab Jamahiriya, Luxembourg, Philippines, Saudi Arabia, Slovakia, Tunisia and Turkey.

3. Replies were also received from the Commonwealth of Independent States (CIS), the European Union (EU), the International Criminal Police Organization (ICPO/Interpol), the Organization of American States (OAS) and the Organization of African Unity (OAU). The Economic Commission for Europe (ECE) also provided information.

4. Among the institutes comprising the United Nations Crime Prevention and Criminal Justice Programme network, the European Institute for Crime Prevention and Control, affiliated with the United Nations, and the Australian Institute of Criminology provided information. In cooperation with the Ministry of the Interior of the Russian Federation, the European Institute has conducted a project on international cooperation in the prevention and control of illicit trafficking in motor vehicles. Relevant information was collected through a detailed questionnaire that was sent to all European countries, including the former Soviet republics. European countries that had previously replied to the questionnaire did not need to provide the information requested by the Secretariat pursuant to Economic and Social Council resolution 1995/27. Accordingly, Belarus and Finland, in their respective replies, referred to the above-mentioned questionnaire.

5. The present report contains a summary of the replies received, as well as an overview of the more recent international initiatives against illicit trafficking in motor vehicles, including, as an annex, a report of the Conference on Theft of and Illicit Trafficking in Motor Vehicles, held at Warsaw on 2 and 3 December 1996.

6. Attention is also drawn to the report of the Conference on International Cooperation in the Prevention and Control of the Theft of and Illicit Trafficking in Motor Vehicles, to be held in Moscow from 28 February to 2 March 1997, organized by the European Institute for Crime Prevention and Control and the Ministry of the Interior of the Russian Federation.

I. INTERNATIONAL DIMENSIONS OF ILLICIT TRAFFICKING IN MOTOR VEHICLES

7. Worldwide, organized transnational crime groups are becoming increasingly involved in illicit trafficking in motor vehicles, a criminal activity that, although considered low-risk, generates high profits. Thanks to well organized criminal networks and sophisticated schemes, motor vehicles stolen in one region are easily smuggled to far-flung destinations. Insufficient cooperation among law enforcement agencies, lack of appropriate controls prior to the registration of a motor vehicle, corruption, legislative discrepancies with regard to bona fide possession of a motor vehicle in various regions of the world, a variety of registration practices and differences in the level of training of vehicle inspectors are generally indicated as factors facilitating the involvement of organized transnational crime in this profitable form of illicit trafficking.

8. In Europe, for example, the transnationalization of the phenomenon has greatly benefited from the opening of the eastern European borders and the increased freedom of movement across the countries. Consequently, many Governments of the region have stressed the need for an efficient system to exchange information on stolen vehicles and for more effective international cooperation among law enforcement agencies, custom officials and border control authorities to prevent and control illicit trafficking in motor vehicles.

9. A major area for international cooperation is the recovery of stolen or embezzled vehicles. The Conference on Theft of and Illicit Trafficking in Motor Vehicles, held at Warsaw on 2 and 3 December 1996, recommended, among other things, that States be urged to negotiate and conclude bilateral and/or multilateral agreements for a simplified and effective procedure to recuperate stolen vehicles. Such agreements should clearly state, *inter alia*, documentation required, certification procedures, translation requirements, authorized expenses and applicability of value added tax. A model treaty is contained in the annex to the resolution contained in paragraph 4 of the report of the Conference annexed to the present report. States could also usefully rely on the existing United Nations model treaties on extradition, mutual assistance in criminal matters, transfer of proceedings and transfer of prisoners, as necessary, as tools in improving international cooperation in the investigation and prosecution of cases of illicit trafficking in motor vehicles.

II. INFORMATION RECEIVED FROM GOVERNMENTS

Argentina

10. In Argentina, a new law recently modified the sanctions for the various forms of crime involving motor vehicles (theft, joy-riding, conspiracy etc.). Statistics on the number of motor vehicles stolen in the country showed a decrease since 1994, while the percentage of recovered vehicles has decreased constantly since 1992.

Australia

11. In Australia, the incidence of motor vehicle theft increased between 1993 and 1995. In 1995, 126,919 motor vehicles were reported stolen.

Brazil

12. Brazil reported that a recent law had modified some articles of the penal code in order to impose stricter sanctions for crimes related to theft of motor vehicles. In particular, a provision was introduced to increase the sanctions against those taking a stolen vehicle to another state or country. The adulteration of identifying numbers or characteristics of the vehicle is now punishable by three to six years of imprisonment and a fine.

Brunei Darussalam

13. In Brunei Darussalam, no activities of illicit trafficking in motor vehicles have been reported to the police.

Colombia

14. Colombia reported an increase of 41 per cent in the number of stolen motor vehicles in 1996, including a high percentage of motorcycles, which represent the most common means of transportation in large parts of the country. Acts of violence were often perpetrated to obtain motor vehicles. Colombia indicated that illicit trafficking in motor vehicles, referred to as "motor vehicle-laundering", thrived on the corruption of relevant officials, including those responsible for registration. Insufficient training of law enforcement officials and lack of resources to carry out systematic controls at the border were other factors contributing to the rise in such crime. The theft of vehicles was related to the constant demand for cheap spare parts, which could only be satisfied through illicit means. Insurance fraud was also frequent. Although the problems relating to illicit trafficking in motor vehicles had been known for a number of years, the situation was deteriorating because no action was being taken at the appropriate levels and the legislation was inadequate to counter the phenomenon in its organized form. Colombia reported on its initiatives to improve international cooperation between law enforcement agencies from neighbouring countries, including bilateral agreements for the return of stolen vehicles. A number of measures to prevent or discourage illicit trafficking in motor vehicles had been proposed, for example, the universal use of the 17-digit vehicle identification number (VIN) for all motor vehicles, as in Europe and the United States of America, and the punishment of the illicit registration of a motor vehicle as a specific offence.

Cyprus

15. In Cyprus, the Department of Road Transport of the Ministry of Communications and Works has responsibility for the registration of motor vehicles. Before registration, a motor vehicle is inspected to verify whether the details on the registration document agree with those appearing on the vehicle itself. In case of doubt, or whenever the registration document does not seem genuine, the matter is referred to the police for investigation.

Estonia

16. In Estonia, the theft of motor vehicles decreased slightly in 1996 compared with 1995. There were two major theft patterns. Firstly, less valuable cars with poor security systems were usually stolen at night from a parking place or garage. Some were taken to the Russian Federation, mostly using fake documentation, or sold in Estonia. Most such cars, however, were sold for spare parts. Secondly, more expensive cars with better security systems were stolen less often, but were typically the target of organized crime, usually stolen on

request, and were likely to be sold abroad. High-quality fake documents were prepared in advance. Criminal organizations involved in this type of trafficking consisted, as a rule, of members from several countries. Estonia was more often on the receiving end of illicit trafficking in motor vehicles. Stolen vehicles with counterfeit documents and security codes were sold there for the purpose of legalizing and reselling them. A wide legal basis existed to prevent illicit trafficking in motor vehicles, including provisions of customs law, the penal code and a government decree to regulate the sale and acquisition of vehicles. Unfortunately, falsification of relevant documents with regard to movement, registration and sale of vehicles occurred. Efforts were reported to improve methods of control over the authenticity of documents. Difficulties in returning stolen vehicles to the country of origin were due to national laws protecting bona fide car owners.

France

17. France reported a decrease in the number of vehicles stolen in 1995, while the percentage of vehicles retrieved increased to 75 per cent. Organized crime groups were mainly stealing vehicles for spare parts or stealing more expensive models to be exported to North Africa, the Middle East and eastern Europe. A computerized national registration record (*fichier national des immatriculations*), which was introduced in 1994, together with provisions regulating the destruction of title documents of wrecked vehicles, had contributed to the decrease in thefts. Legal provisions had also been enacted to improve the security devices of motor vehicles, in compliance with EU directives. A national database (*fichier des véhicules volés*) gathering all information on vehicles reported stolen had been operational for years and was part of the Schengen database. A computerized national motor vehicle record (*fichier national automobiles*) had been established in 1994. Public awareness campaigns and specific training for law enforcement officials were indicated as other useful initiatives to prevent and control illicit trafficking in motor vehicles.

Germany

18. Germany reported that illicit trafficking in motor vehicles was an area covered by the act to suppress illegal drug trafficking and other manifestations of organized crime (OrgKG) of 15 July 1992, which contained specific legal provisions imposing severe penalties. In particular, the commission of gang theft under aggravated circumstances and gang trading in stolen property on a commercial basis were considered serious criminal offences. This has led to a number of consequences, such as the applicability of the provisions on money-laundering and the provisions on property and extended forfeiture, as well as the punishability of the early preparatory stage of such criminal offences under the provisions for conspiracy. The telephone-tapping catalogue under section 100 of the Criminal Procedure Code was also applicable to the above-mentioned offences. The Crime Suppression Act of 28 October 1994 had introduced penal provisions to cover the falsification of registration documents of motor vehicles and related offences.

Greece

19. Greece reported a constant increase in the number of stolen vehicles since 1992, while the recovery rate of stolen vehicles had dropped significantly. The penal code covered offences associated with illicit trafficking in motor vehicles, such as forgery, theft, appropriation, receipt and distribution of proceeds of crime. Legal provisions relevant to illicit trafficking in motor vehicles included article 100 of Law 1165/1918 (Customs Code), which described the different forms of smuggling, including the removal of the chassis number of a vehicle and the placement or integration thereof in any other vehicle for which the appropriate duties had not been paid. There existed also a Statutory Regulation No. 2/85 on lost, found, stolen articles and searches for persons and things, issued by the Ministry of the Interior and Public Order. Law 2331/1995 on the prevention and repression of the legalization of proceeds from criminal activities and other penal provisions and chapter 9 of Law 2094/1992 on the ratification of the highway code contained provisions regarding illicit trafficking in motor vehicles. Greece also indicated that there existed a route for the transportation of stolen luxury cars from

western to eastern Europe passing through Italy, Greece and Bulgaria. A number of bilateral agreements on police cooperation had been concluded with neighbouring and central European countries. At the national level, it was reported that the police was cooperating closely with the coast guards, custom officials, the judiciary and other relevant authorities.

Guyana

20. In Guyana, the theft of motor vehicles had become statistically relevant only over the past two years and the recovery rate was very high. There was no evidence of organized trafficking in motor vehicles and thefts tended to be related to the shortage of spare parts.

India

21. In India, because of the country's size and geographical configuration, illicit trafficking in motor vehicles was inter-state rather than international. There had been a constant increase in the number of stolen motor vehicles between 1992 and 1994, while the recovery rate had decreased from 50.1 to 39.3 per cent in the same period. The number of stolen motorcycles had decreased, as well as the recovery rate for that type of vehicle. With the computerization of the lost and recovered motor vehicle data at the national/state crime records bureaux, a no-objection certificate from a law enforcement agency had become mandatory to transfer ownership of a vehicle. Such a certificate guaranteed that the car in question was not stolen. The establishment of a computerized national transport registration and licensing system was under consideration.

Israel

22. In Israel, vehicle theft had been declared a national scourge by courts and prosecutors. The theft of motor vehicles was organized and structured into its component stages of vehicle orders, theft, dismantling into parts, sale of the parts on the free market and equipping the vehicle with a new, false identification. This criminal industry was part of the legal vehicle repair economy. No security device had proved effective against theft and dismantling was a thoroughly professionalized activity carried out in a number of concealed "chop shops". In 1995, 32,767 vehicles had been stolen, with a recovery rate of 40 per cent. A Stolen Vehicle Location Unit had been created in November 1994 under the sponsorship of the Association of Insurance Companies. In October 1995, an interministerial committee was established to examine possible countermeasures to combat this form of criminality. The committee issued a number of recommendations, including the following: extending the activity of the Stolen Vehicle Location Unit to all districts; establishing district and subdistrict investigation units; using magnetic cards and on-line procedures for the registration and transfer of ownership of motor vehicles; and tax exemptions for security devices. Further to a report by the committee, the adoption of a law regulating the use of and trade in spare parts of motor vehicles was imminent.

Italy

23. In Italy, there had been a slight increase in the number of stolen vehicles from 1995 to 1996. The recovery rate averaged around 50 per cent, although it differed greatly from region to region, ranging between 14.49 and 84.62 per cent. Among the initiatives reported was a coordination plan for the judicial police units of the traffic police to curb illicit trafficking in motor vehicles.

Japan

24. In Japan, 277,239 cases of theft of motor vehicles were reported to the police in 1995. Of these, the offenders were identified in 27.1 per cent of the cases. A large operation of illicit trafficking in motorcycles was investigated in 1994-1995 and two main patterns of export were identified: vehicles were being taken

abroad by exporters or else by crew members on ships as their personal belongings. The main receiving countries were China and Viet Nam. Acquisition or loss of ownership of a motor vehicle could not be claimed against a third party until the vehicle had been registered in the motor vehicle register file.

Kuwait

25. Kuwait reported on its Customs Law which contains provisions on smuggling offences applicable also to illicit trafficking in motor vehicles.

Libyan Arab Jamahiriya

26. In the Libyan Arab Jamahiriya, the highest rates of motor vehicle theft offences had been registered in the security district of Tripoli, which was highly urbanized. The number of motor vehicle theft offences registered from 1990 to 1995 had increased from 2,629 to 4,197. No illicit trafficking in stolen motor vehicles and no organized motor vehicle theft groups were reported in the Libyan Arab Jamahiriya. The value and availability of spare parts on the market greatly influenced the number of motor vehicles stolen. The involvement of workers at rubbish or scrap dumps in the theft of motor vehicles was indicated. Occasionally, police campaigns by security officers against car scrap complexes had positive results in the reduction of motor vehicle theft crimes.

Luxembourg

27. In Luxembourg, the number of motor vehicles reported stolen between 1988 and 1996 increased steadily until 1993 and then dropped considerably, in particular between 1995 and 1996. The recovery rate for vehicles stolen over the same period was between 29 and 45 per cent. Motor vehicles stolen in Luxembourg were usually exported to Belgium, eastern European countries, former Soviet republics, northern African countries and the Middle East. Besides theft, falsification of documents and alteration of identifying characteristics of motor vehicles, insurance fraud was a fairly common phenomenon. As a preventive measure, the registration procedure for imported vehicles had become more strict and controls were carried out more thoroughly. Since the establishment of the Schengen database, a number of stolen vehicles had been traced. In Belgium, the Netherlands and Luxembourg, EUCARIS, a computerized system to exchange information on the registration of motor vehicles, had been created. Luxembourg was also taking steps to join the ICPO/Interpol Automatic Search Facility (ASF) International Stolen Vehicle Database.

Philippines

28. In the Philippines, controls carried out by the Bureau of Customs in container vans had led to the accidental recovery of stolen vehicles. The Bureau played a critical role in preventing illicit trafficking in motor vehicles as an imported vehicle could not be registered unless proof of payment of duties and taxes was provided. The Land Transportation Office of the Department of Transportation was involved in the registration of motor vehicles. The Philippines indicated specific legal provisions covering carjacking and highway robbery. Vehicles taken forcibly accounted for 34.2 per cent of the vehicles stolen in 1996, while only 5 per cent of the cases involved vehicles stolen while parked. The Wanted Motor Vehicle Inquiry was a database established as a joint initiative by the Land Transportation Office, the Philippine National Police Traffic Management Group and the Philippine Coast Guard against illicit trafficking in motor vehicles. Registration of vehicles by the Land Transportation Office was subject to previous clearance from the police, while the coast guards denied transport of vehicles from island to island without the required permit issued by the Traffic Management Group.

Saudi Arabia

29. Saudi Arabia reported that cases of stolen and smuggled motor vehicles involving organized crime had been brought to the attention of the authorities years before. For any imported vehicle suspected of being stolen, thorough controls were carried out to ascertain the exporter and verify the legality of the procedure. If a document from the security authorities in the country of origin or the country from which the vehicle was shipped was presented, the competent officials at entry points were to ascertain that the vehicle had not been claimed by the authorities in either country.

Slovakia

30. Slovakia reported that illicit trafficking in motor vehicles had become a matter of concern since 1990 and the number of reported cases had reached a peak in 1993. Serious countermeasures adopted in 1995 had contributed to the reduction of cases and to an increase in the recovery and disclosure rates. Slovakia described itself as both a transit and a destination country for stolen vehicles. Large numbers of misappropriated vehicles were seized at the border. Organized crime was involved in the falsification of documents, trafficking and tax evasion, a situation due to changes in the social and economic system of the country and the opening of borders, which had resulted in an uncontrollable movement of persons, including foreigners, and an increase in the demand for and registration of expensive cars. Insurance frauds were also quite frequent, although no data were available. The organization of criminal groups had become more complex in the last few years. Law enforcement officials tended to uncover low-level couriers rather than individuals at the top level of criminal organizations. Criminals were increasingly using high-technology devices to incapacitate sophisticated security systems. A number of initiatives on the subject were reported, including a study by the Police Academy and an international conference held in 1995. Legal provisions against illicit trafficking in motor vehicles were under revision, while registration documents had recently been redesigned with security features. A central registration system had been established as a result of cooperation between the police and Car Code Bratislava, a company that had created a coding system now required as a mandatory feature by insurance companies in Slovakia. This system consisted of carving the last eight figures of the VIN of each vehicle on its windows in order to facilitate its identification and recovery in case of theft. Slovakia was one of the first countries to download its national database on stolen vehicles into the ICPO/Interpol ASF International Stolen Vehicle Database.

Tunisia

31. In Tunisia, illicit trafficking in motor vehicles had become apparent around the mid-1980s, targeting in particular luxury vehicles. Such vehicles were easy to obtain from European countries such as Belgium, France, Germany, Italy and Switzerland. Various methods could be used to steal or misappropriate motor vehicles, such as hire purchase or rent and subsequent sale. An organized criminal group had been detected, which included members from neighbouring countries and was involved in the theft of Tunisian luxury vehicles for sale outside the country.

Turkey

32. Turkey reported the recent establishment of a computerized registration system. Relevant documents had been redesigned and made more difficult to forge through hologrammes. A security code system on registration plates had been introduced nationally to prevent theft of motor vehicles and plates. All information on a vehicle reported stolen was recorded in the Stolen Motor Vehicle Project and disseminated all over the country. Turkey was also considering joining the ICPO/Interpol ASF International Stolen Vehicle Database.

III. INFORMATION RECEIVED FROM ORGANIZATIONS

33. The Commonwealth of Independent States (CIS) indicated that illicit trafficking in motor vehicles had increased since 1988, reaching a peak in 1992. A package of countermeasures adopted in 1993-1995 had led to a decrease in this type of crime in some of the CIS member States despite the rapid increase in the number of cars available. In most CIS member States, and particularly in the central Asian region, the number of cases had fallen dramatically since 1994. In the western region of CIS the problem continued to be serious and the number of thefts and unauthorized use of motor vehicles was rising, while the success rate in solving such crimes remained low. Given the economic vulnerability of the population in those countries, the theft of tens of thousands of motor vehicles was a major destabilizing factor. The proportion of unreported thefts was also extremely high, as many victims preferred to approach criminal organizations directly to recover their vehicles upon payment of a fee. Large numbers of motor vehicles were illicitly imported from countries outside CIS. The inter-state programme of joint measures to combat organized crime and other types of dangerous crimes in the territory of the CIS member States provided for further discussion on the creation of a centralized data bank on stolen motor vehicles in CIS and other States.

34. Member States of the European Union (EU) considered the fight against illicit trafficking in motor vehicles to be an important issue in the programme on organized crime. The matter was included in the mandates of both the future European police force (Europol) and its forerunner, the Europol Drugs Unit (EDU). A 1995 Directive of the European Commission (95/56/CE of 8 November 1995) had amended a previous directive on anti-theft devices and had introduced the mandatory equipment of all new cars with electronic immobilizers. EDU was preparing a situation report on trafficking in stolen vehicles.

35. The International Criminal Police Organization (ICPO/Interpol) had developed a motor vehicle crime action plan and an international stolen vehicle database. The Analytical Criminal Intelligence Unit of the General Secretariat had produced a report entitled "Project Roadrunner" on the routes used for vehicle trafficking in Europe, together with information on the organized groups involved. The ICPO/Interpol ASF International Stolen Vehicle Database, which became operational in April 1996, contains details of stolen and misappropriated vehicles including their VIN or chassis numbers, while no personal information is recorded on it. Interpol national central bureaux or national police authorities of participating countries are responsible for creating, modifying and deleting the stolen vehicle records, using specified message formats. This is achieved electronically using an international e-mail protocol (x-400) to link up to the central stolen vehicle database at the General Secretariat and is carried out on a daily basis. There are three options for entering data into the system and subsequently interrogating it. Special software has been developed and made available to requesting countries by ICPO/Interpol to help them to update and use the system.

36. The Organization of American States (OAS) referred to three international treaties on the subject, namely, the Convention on the Regulation of Automotive Traffic of 1930, the Convention on the Regulation of Inter-American Automotive Traffic of 1943 and the Regional Agreement for the Temporary Importation of Vehicles by Highway of 1956.

37. The Organization of African Unity (OAU) reported that there was great awareness among its member States of the worsening situation with regard to theft of and illicit trafficking in motor vehicles. The problem had been tackled at the national level by individual countries concerned and some efforts had been made to coordinate such activities among neighbouring countries.

38. The Economic Commission for Europe (ECE), within its work programme in the area of transport and standards for the construction of vehicles, referred to Regulation No. 18 and amendments, on uniform provisions concerning the approval of power-drive vehicles with regard to their protection against unauthorized use, and

Regulation No. 97 and amendments, on uniform provisions concerning the approval of vehicle alarm systems and of motor vehicles with regard to their alarm systems.

39. The Australian Institute of Criminology was in close contact with the recently established National Motor Vehicle Theft Task Force to examine the issues of motor vehicle theft in Australia. In Australia there are two national databases gathering information relevant to the prevention of the illicit trafficking in motor vehicles, the NEVDIS database, which coordinates motor registration data and is run by Austroads, a federal agency, and the National Wrecks Register.

40. The European Institute for Crime Prevention and Control, together with the Ministry of the Interior of the Russian Federation, carried out a project on the prevention and control of theft of and illicit trafficking in motor vehicles in several countries in Europe. A report was prepared on the basis of replies received in response to the questionnaire on motor vehicle crime sent to all European countries and is to be presented at the Conference on International Cooperation in the Prevention and Control of the Theft of and Illicit Trafficking in Motor Vehicles, held in Moscow from 28 February to 2 March 1997 (see also para. 4 above). The questionnaire focused on seven topics: statistical background data; registration for ownership; registration of motor vehicle theft or misappropriation; import and export of misappropriated motor vehicles; seizure and return of a stolen or misappropriated motor vehicle; issues in international cooperation; and proposals for the improvement of international cooperation. As of January 1997, replies had been received from 32 countries. It was apparent that methods to compile statistics varied from country to country and that not all information provided was comparable. From the survey it emerged that the growth of motor vehicle crime had stabilized in western Europe, but it was still strong in many eastern European countries. Eastern European countries, with their limited automobile availability, especially in relation to the most desirable makes and models, were the most important target countries for misappropriated motor vehicles. Western European countries had become countries of origin since they had a large number of desirable motor vehicles available. Along with economic development, the car park in eastern European countries had increased and improved rapidly, so that the pressure of motor vehicle crime had moved to those areas and the situation in western Europe had improved. At the peak of illicit trafficking in motor vehicles in western Europe, international cooperation mechanisms had been developed, also involving insurance companies and car manufacturers. Such mechanisms had now been adopted by eastern European countries. Dramatic progress had been made in the computerization of motor vehicle registration data systems and stolen vehicle databases. In general, international cooperation against this type of crime had improved but was still inadequate and the flow of information among relevant agencies, at the national and international levels, was reportedly still inefficient. Where international agreements had been concluded, practical procedures for their implementation had not been devised. Problems relating to languages, different registration procedures and relevant documents had not yet been solved satisfactorily. Countries had been slow in joining the ICPO/Interpol ASF International Stolen Vehicle Database, which had not reached its potential so far. Conflicting jurisdictions among various law enforcement agencies at the national level were also hampering an effective response to this form of crime.

IV. ACTION REQUIRED BY THE COMMISSION ON CRIME PREVENTION AND CRIMINAL JUSTICE

41. On the basis of the information contained in the present report, the recommendations of the Warsaw Conference in its annex and the Moscow declaration (to be submitted to the Commission in a conference room paper), the Commission may wish to suggest measures to prevent and control illicit trafficking in motor vehicles.

42. In particular, the Commission may wish to examine the priorities for action to strengthen international cooperation among the various law enforcement agencies involved in the fight against illicit trafficking in motor vehicles.

43. Many Governments indicated an urgent need to provide specific training for law enforcement officials on relevant issues, with a view to increasing the effectiveness of border controls, upgrading skills in identifying motor vehicles with false documents or altered security features and improving the reliability of document controls prior to the registration of a motor vehicle. The Commission may wish to endorse the recommendations made by the Warsaw Conference in that respect. If the Commission decides to do so, the Division, in cooperation with the private sector, may elaborate a training manual for law enforcement and customs personnel on the prevention and control of trafficking in stolen and misappropriated vehicles, for use in the provision of practical assistance to requesting Member States.

44. The attention of the Commission is also drawn to the model treaty for the return of stolen or embezzled vehicles, contained in the annex to the resolution contained in paragraph 4 of the report of the Warsaw Conference, which represents an effective tool to facilitate the procedure to recuperate stolen vehicles.

Annex

REPORT OF THE CONFERENCE ON THEFT OF AND ILLICIT TRAFFICKING IN MOTOR VEHICLES

(Warsaw, 2 and 3 December 1996)

INTRODUCTION

1. On the recommendation of the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Cairo from 29 April to 8 May 1995, as endorsed by the Commission on Crime Prevention and Criminal Justice at its fourth session, the Economic and Social Council adopted resolution 1995/27 of 24 July 1995, in section II, paragraph 1 of which the Council requested the Commission to consider measures on the prevention and suppression of illicit trafficking in motor vehicles, and requested the Secretary-General to seek the views of Governments and relevant organizations on the matter and to report to the Commission at its sixth session.

2. Pursuant to that mandate, the Secretariat requested all Member States and relevant organizations to provide information and data on the illicit trafficking in motor vehicles. The European Institute for Crime Prevention and Control, affiliated with the United Nations, in cooperation with the Ministry of the Interior of the Russian Federation, is conducting a survey on the problem in countries of Europe and central Asia, with the view to assessing current trends in a conference to be convened in Moscow from 28 February to 2 March 1997.

3. At the invitation of the Government of Poland and with the support of the Government of the United States of America, the Crime Prevention and Criminal Justice Division organized the Conference on Theft of and Illicit Trafficking in Motor Vehicles, held at Warsaw on 2 and 3 December 1996.

I. RECOMMENDATIONS

4. On 3 December 1996, the Conference unanimously passed the following resolution:

"*The Conference on Theft of and Illicit Trafficking in Motor Vehicles*,

"*Alarmed* by the rapid growth and geographical expansion of illicit trafficking in motor vehicles, which increasingly transcends national borders,

"*Concerned* about the increasing role of transnational organized crime in theft of and illicit trafficking in motor vehicles,

"*Recognizing* that car theft and illicit trafficking in motor vehicles, with their high costs, have adverse effects on the safety and national economies of Member States,

"*Recalling* Economic and Social Council resolution 1995/27 of 24 July 1995,

"*Emphasizing* the need for strengthened and more effective international cooperation at all levels to combat illicit trafficking in motor vehicles,

"*Acknowledging* in particular the importance of international police cooperation in the prevention and fight against illicit trafficking in motor vehicles, and the need for rapid exchange of information among countries on the status and origins of motor vehicles,

"*Recognizing* the work already undertaken by the International Criminal Police Organization (Interpol) in establishing a worldwide stolen vehicle database,

"*Welcoming* the participation of and contributions by the representatives of the private sector, in particular insurance companies, insurance crime bureaux and car manufacturers,

"1. *Expresses its appreciation* to the Government of Poland for acting as host to the Conference and to the Government of the United States of America for generously providing the funding for it;

"2. *Submits* the following recommendations to the Commission on Crime Prevention and Criminal Justice for consideration and action at its sixth session:[a]

"*(a)* Member States are encouraged to improve the exchange of information on theft of and illicit trafficking in motor vehicles. For this purpose, Member States are encouraged to explore the possibility of establishing national databases on stolen vehicles and other pertinent information and to support the efforts of the International Criminal Police Organization (Interpol) by supplying their national data on stolen vehicles, in accordance with the specified methods available, to the International Criminal Police Organization/Interpol Automatic Search Facility International Stolen Vehicle Database as an important tool for combating international vehicle trafficking. Further, Member States are urged to exchange information actively at the bilateral, subregional or regional levels, and through appropriate international law enforcement entities, in order to combat illicit trafficking in motor vehicles more effectively;

"*(b)* Member States should consider developing compatible registration and titling procedures and documents for vehicles in order to facilitate the identification of the rightful owner by law enforcement personnel and customs authorities. As a first step towards achieving this goal, Member States are urged to harmonize the elements contained in the registration documents of motor vehicles as a significant means of preventing the illicit trafficking in motor vehicles and to consider the possibility of integrating their national stolen vehicle databases into the International Criminal Police Organization/Interpol Automatic Search Facility International Stolen Vehicle Database. Member States should explore the possibility of establishing salvage-control procedures to ensure that the title documents of wrecked vehicles are not used on stolen vehicles. They should also exchange information on how to improve the security features of car registration documents;

"*(c)* Member States should consider making any necessary changes in their respective national laws and procedures aimed at improving the response of the justice system to vehicle theft and trafficking and at minimizing conflicting property issues arising from the international repatriation of stolen vehicles;

"*(d)* Member States should make all possible efforts to strengthen their cooperation in this field, at the bilateral, regional and interregional levels. In this context, Member States are encouraged:

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[a]These recommendations will be brought to the attention of the forthcoming meeting on stolen vehicles, to be organized in Moscow from 28 February to 2 March 1997, by the European Institute for Crime Prevention and Control, affiliated with the United Nations, in cooperation with the Ministry of the Interior of the Russian Federation, to consider the final results of the survey conducted in Europe by the European Institute.

"*(i)* Actively to promote close operational cooperation and exchange of information among relevant law enforcement agencies across national borders to detect, apprehend and bring to justice traffickers in stolen vehicles and to promote close cooperation among other relevant agencies to ensure recuperation and return of such stolen vehicles to their rightful owners;

"*(ii)* To respond promptly to requests from appropriate law enforcement agencies of other States for assistance in the recovery of stolen vehicles;

"*(e)* Member States are urged to improve international cooperation in the field of prevention and control of theft of, trafficking in and other offences in connection with stolen vehicles. Member States are also urged to negotiate and conclude bilateral and/or multilateral agreements for a simplified and effective procedure to recuperate stolen vehicles. Such agreements should clearly define, *inter alia*, documentation required, certification procedures, translation requirements, authorized expenses and applicability of value added tax. In this connection, Member States are urged to rely on the model treaty contained in the annex to the present resolution. Member States are also urged to rely on the existing United Nations model treaties on extradition, mutual assistance in criminal matters, transfer of proceedings and transfer of prisoners, as necessary, as useful tools in improving international cooperation in the investigation and prosecution of cases of illicit trafficking in motor vehicles;

"*(f)* Member States should be encouraged to adopt a standard world vehicle identification number system format applying to all vehicles manufactured within or exported to Member States;

"*(g)* The Commission is encouraged to request the Secretary-General:

"*(i)* To elaborate a training manual for law enforcement and customs personnel on the prevention and control of trafficking in stolen and misappropriated vehicles, for use in the provision of practical assistance to Member States upon request;

"*(ii)* To develop and carry out training programmes on the recovery of stolen vehicles in countries requesting technical assistance for law enforcement and customs personnel;

"*(iii)* To provide advisory services to Member States upon request for the elaboration or reform of pertinent legislation, as well as for the development of bilateral, multilateral and/or regional treaties in this area;

"*(h)* Member States and the private sector are urged to assist the Secretary-General in undertaking the activities contained in subparagraph *(g)* above;

"3. *Recommends that* the fight against theft of and trafficking in stolen vehicles take into account recent progress in anti-theft and immobilizing systems and the possibilities offered by new technologies. In conjunction with the efforts made by appropriate government authorities, vehicle manufacturers, insurance companies and equipment manufacturers should further study and improve identification systems for vehicles and spare parts, sharing their findings with the relevant law enforcement agencies.

"**ANNEX**

"**Model treaty for the return of stolen or embezzled vehicles**

"(*The Government of* [country name] *and the Government of* [country name];[a])

"or

"(*The States Parties to the present Treaty*[b])

"*Recognizing* the growing problem of theft of and illicit trafficking in motor vehicles.

"*Considering* the difficulties faced by innocent owners in securing the return of motor vehicles stolen or embezzled in the territory of one Party that are recovered in the territory of another Party.

"*Desiring* to eliminate such difficulties and to regularize procedures for the expeditious return of such vehicles.

"*Have agreed* as follows:

"*Article 1*

"For the purposes of the present Treaty:

"1. A 'vehicle' shall mean any automobile, truck, bus, motorcycle, motorhome or trailer.

"2. A vehicle shall be considered 'stolen' when possession thereof has been obtained without the consent of the owner or other person legally authorized to use such motor vehicle.

"3. A vehicle shall be considered 'embezzled' when:

"(*a*) It is unlawfully converted by the person who had rented it from an enterprise legally authorized for that purpose and in the normal course of business; or

"(*b*) It is unlawfully converted by a person with whom it has been deposited by official or judicial action.

"4. All references to 'days' shall mean calendar days.

"*Article 2*

"Each Party agrees to return, in accordance with the terms of the present Treaty, vehicles that are:

"1. Registered, titled or otherwise documented in the territory of a Party;

"2. Stolen or embezzled in the territory of a Party; and

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[a]This provision would be applicable to bilateral agreements.
[b]This provision would be applicable to subregional or regional agreements.

"3. Found in the territory of a Party.

"Article 3

"1. Whenever police, customs or other authorities of a Party impound or seize a vehicle that they have reason to believe is registered, titled or otherwise documented in the territory of another Party, the first Party shall, within [thirty] days of such impoundment or seizure, notify, in writing, the Embassy of the other Party that its authorities have custody of the motor vehicle.

"2. Such notification shall include all available identifying data about the vehicle of the type listed in appendix I to the present model treaty, a description of the condition of the motor vehicle, the current location of the vehicle, the identity of the authority with physical custody of the vehicle and any information that indicates whether it was being used in connection with the commission of a crime.

"Article 4

"Authorities of the Party who have impounded or seized a vehicle that they have reason to believe is registered, titled, or otherwise documented in the territory of another Party shall promptly take it to a storage area and shall take reasonable steps regarding the safekeeping of the vehicle. The said authorities shall not thereafter operate, auction, dismantle or otherwise alter or dispose of the vehicle. However, the present Treaty shall not preclude the said authorities from operating, auctioning, dismantling or otherwise altering or disposing of the vehicle if:

"(*a*) No request for the return of the vehicle is filed within [sixty] days of the notification made pursuant to Article 3 above;

"(*b*) A determination is made in accordance with paragraph 1 of Article 7 below that a request for the return of the vehicle does not meet the requirements of the present Treaty and notification of such determination has been made in accordance with paragraph 3 of Article 7;

"(*c*) The vehicle has not been retrieved, within the time period stated in paragraph 2 of Article 7 below, by the person identified in the request for return as the owner or the owner's authorized representative after the vehicle has been made available as provided in paragraph 2 of Article 7; or

"(*d*) There is no obligation under the present Treaty pursuant to paragraphs 2 or 3 of Article 8 below to return the vehicle.

"Article 5

"1. After receiving a notification made pursuant to Article 3, above a Party may submit a request for the return of the vehicle.

"2. The request for return shall be transmitted under seal of a consular officer of the Requesting Party and shall follow the form shown in appendix II. A copy of the request shall be transmitted under cover of a note to the Ministry of Foreign Affairs of the Requested Party. A request shall be made only after receipt by the consular officer of properly notarized certified copies of the following documents:

"(*a*) (*i*) The title of ownership to the vehicle, if the vehicle is subject to titling, but, if a title is not available, a certified statement from the titling authority that the motor vehicle is titled and specifying the person or entity to whom it is titled;

"(*ii*) The certificate of registration of the vehicle, if the vehicle is subject to registration, but, if the registration document is not available, a certified statement from the registering authority that the vehicle is registered and specifying the person or entity to whom it is registered;

"(*iii*) The bill of sale or other documentation that establishes ownership of the vehicle, in the event the vehicle is not titled or registered;

"(*b*) The document of transfer, if, subsequent to the theft or embezzlement of the vehicle, the owner at the time of the theft or embezzlement has transferred ownership to a third party;

"(*c*) The theft report, made within a reasonable time to a competent authority in the Requesting Party, and a translation thereof. In the event that the theft report is made after the vehicle is seized or otherwise comes into possession of the Requested Party, the person seeking its return shall furnish a document justifying the reasons for the delay in reporting the theft and may provide any supporting documentation therefor; and

"(*d*) In cases in which the person requesting the return of a vehicle is not the owner, a power of attorney, granted in the presence of a notary public by the owner or his legal representative, authorizing that person to recover the vehicle.

Except as noted in subparagraph (*c*), translations of documents need not be provided. The requirement for translation of a theft report may be waived by authorities of the Requested Party. No further legalization or authentication of documents will be required by the Requested Party.

"*Article 6*

"If a Party learns, through means other than a notification made pursuant to Article 3 above, that the authorities of another Party may have impounded, seized or otherwise taken possession of a vehicle that may be registered or otherwise documented in the territory of the first Party, that Party:

"(*a*) May, through a note to the Ministry of Foreign Affairs of the other Party, seek official confirmation of this and may request the other Party to provide the notification described in Article 3, in which case the other Party shall either provide the notification or explain, in writing, why notification is not required; and

"(*b*) May also, in appropriate cases, submit a request for the return of the vehicle as described in Article 5 above.

"*Article 7*

"1. Except as provided for in Article 8 below, the Requested Party shall, within [thirty] days of receiving a request for the return of a stolen or embezzled vehicle, determine whether the request for return meets the requirements of the present Treaty and shall notify the Embassy of the Requesting Party of its determination.

"2. If the Requested Party determines that the request for the return of a stolen or embezzled vehicle meets the requirements of the present Treaty, the Requested Party shall within [fifteen] days of such determination make the vehicle available to the person identified in the request for return as the owner or the owner's authorized representative. The vehicle shall remain available for the person identified in the

request for return as the owner or the owner's authorized representative to take delivery for at least [ninety] days. The Requested Party shall take necessary measures to permit the owner or the owner's authorized representative to take delivery of the vehicle and return it to the territory of the Requesting Party.

"3. If the Requested Party determines that the request for return does not meet the requirements of the present Treaty, it shall provide written notification to the Embassy of the Requesting Party.

"Article 8

"1. If a vehicle whose return is requested is being held in connection with a criminal investigation or prosecution, its return pursuant to the present Treaty shall be effected when its presence is no longer required for purposes of that investigation or prosecution. The Requested Party shall, however, take all practicable measures to assure that substitute pictorial or other evidence is used wherever possible in such investigation or prosecution so that the vehicle may be returned as soon as possible.

"2. If the ownership or custody of a vehicle whose return is requested is the subject of a pending judicial action in the Requested Party, its return pursuant to the present Treaty shall be effected at the conclusion of that judicial action. However, a Party shall have no obligation under the Treaty to return the vehicle if such judicial action results in the award of the vehicle to a person other than the person identified in the request for return as the owner of the vehicle or the owner's authorized representative.

"3. A Party shall have no obligation under the present Treaty to return a vehicle whose return is requested if the vehicle is subject to forfeiture under its laws because it was used in its territory for the commission of a crime. The Requested Party shall not forfeit the vehicle without giving the owner or the owner's authorized representative reasonable notice and an opportunity to contest such forfeiture in accordance with its laws.

"4. A Party shall have no obligation under the present Treaty to return a stolen or embezzled vehicle if no request for return is made within [sixty] days of a notification made pursuant to Article 3 above.

"5. If the return of a stolen or embezzled vehicle whose return is requested is postponed, pursuant to paragraphs 1 or 2 of the present Article, the Requested Party shall so notify the Embassy of the Requesting Party in writing within [thirty] days of receiving a request for the return of the vehicle.

"Article 9

"1. The Requested Party shall not impose any import or export duties, taxes, fines or other monetary penalties or charges on vehicles returned in accordance with the present Treaty, or on their owners or authorized representatives, as a condition for the return of such vehicles.

"2. Actual expenses incurred in the return of the vehicle, including towing costs, storage costs, maintenance costs, transportation costs and costs of translation of documents required under the present Treaty, shall be borne by the person or entity seeking its return and shall be paid prior to the return of the vehicle. The Requested Party shall use its best efforts to keep such expenses at reasonable levels.

"3. In particular cases, the expenses of return may include the costs of any repairs or reconditioning of a vehicle that may have been necessary to permit the vehicle to be moved to a storage area or to maintain it in the condition in which it was found. The person or entity seeking the return of a vehicle shall not be responsible for the costs of any other work performed on the vehicle while it was in the custody of the authorities of the Requested Party.

"Article 10

"The mechanisms for the recovery and return of stolen or embezzled vehicles under the present Treaty shall be in addition to those available under the laws of the Requested Party. Nothing in the Treaty shall impair any rights for the recovery of stolen or embezzled vehicles under applicable law.

"Article 11

"1. Any differences regarding the interpretation or application of the present Treaty shall be resolved through consultations between the Parties.

"2. The present Treaty shall be subject to ratification. It shall enter into force on the date of exchange of instruments of ratification.

"3. The present Treaty may be terminated by either Party upon a minimum of [ninety] days' written notification.[c]

DONE at [site], this _____ day of _____, ____, in duplicate, in the _____ and _____ languages, both texts being equally authentic.

"ANNEX I

"Identifying information to be provided in a notification made pursuant to Article 3

"1. Vehicle identification number.

"2. Name of manufacturer of vehicle.

"3. Vehicle model and year of manufacture, if known.

"4. Colour of vehicle.

"5. Licence plate number of vehicle and jurisdiction of issuance, if available.

"6. City/other jurisdiction tag or sticker number and name of city/other jurisdiction, if available.

"7. A description of the condition of the vehicle, including mobility of vehicle, if known, and repairs that appear necessary.

"8. The current location of the vehicle.

"9. The identity of the authority having physical custody of the vehicle and a contact point, including name, address and telephone number, of the official having recovery information.

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[c]Applicable to bilateral agreements. Other suitable provisions, in accordance with international law and standard practice, would need to be inserted for subregional or regional agreements.

"10. Any information that indicates whether the vehicle was being used in connection with the commission of a crime.

"11. Whether it appears that the vehicle may be subject to forfeiture under the laws of the notifying State.

"ANNEX II

"Request for the return of a stolen or embezzled vehicle

"The Embassy of [country name] respectfully requests that (the appropriate authority of) [country name] return the vehicle described below to (its owner/its owner's authorized representative) in accordance with the Treaty for the Return of Stolen or Embezzled Vehicles:

"Make:
"Model (year):
"Type:
"Vehicle identification number:
"Licence plates:
"Registered owner:

"The Embassy of [country name] certifies that it has examined the following documents, which have been presented by (identity of person submitting documents) as evidence of (his or her ownership of the vehicle/ownership of the vehicle by the person for whom he or she is acting as authorized representative) and found them to be properly certified under the laws of (appropriate jurisdiction):

"(*a*) (Document description);
"(*b*) (Document description);
"(*c*) (Document description);
"(*d*) (Document description).

"Complimentary close
"Place and date
"Attachments"

II. ORGANIZATION OF THE CONFERENCE

A. Attendance

5. The following Member States were represented at the Conference: Austria, Belarus, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Norway, Poland, Republic of Moldova, Romania, Russian Federation, Slovakia, Spain, Sweden, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland and United States of America.

6. Japan was represented by an observer.

7. The United Nations Development Programme (UNDP) was also represented by an observer.

8. The following institutes were represented: United Nations Interregional Crime and Justice Research Institute and European Institute for Crime Prevention and Control, affiliated with the United Nations.

9. The following intergovernmental organizations were represented by observers: European Commission, Europol Drugs Unit, International Criminal Police Organization (ICPO/Interpol) and International Road Traffic Organization (IRTO).

10. The following other organizations were represented by observers: Groupement d'assureurs français pour l'identification, la recherche et la récupération de véhicules indemnisés (ARGOS), Canadian Automobile Theft Bureau, Comité européen des assurances, Finnish Traffic Insurance Centre, International Association of Auto Theft Investigators, International Touring Alliance, Mercedes Benz AG, National Insurance Crime Bureau, Renault SA and Swedish Insurance Investigation Unit.

B. Opening of the Conference

11. The Conference was opened by Mr. Wlodzimierz Cimoszewicz, Prime Minister of Poland. In welcoming the participants, he emphasized the growing threat posed by organized transnational crime in all its insidious forms, including theft of and illicit trafficking in motor vehicles. He stressed that the Conference should be viewed as a practical step towards implementing the Naples Political Declaration and Global Action Plan against Organized Transnational Crime (see A/49/748, annex, chap. IV.A), which he considered a turning point of international cooperation in the fight against organized crime. He reiterated the strong commitment of the Government of Poland to continue playing a leading role in promoting international cooperation in the field, as evidenced by the recent proposal of the President of the Republic of Poland to the General Assembly at its fifty-first session regarding a draft framework convention against organized crime. He highlighted the importance for the Conference to arrive at concrete recommendations that could improve national and international capacities effectively to counter this form of crime by new legal and technical means.

12. The Officer-in-Charge of the Crime Prevention and Criminal Justice Division, on behalf of the Secretary-General and the Director-General of the United Nations Office at Vienna, expressed his sincere thanks to the Government of Poland for its unwavering support to the United Nations Crime Prevention and Criminal Justice Programme. The Conference was designed to address a problem that had grown in size and in impact and was becoming increasingly transnational in nature. Theft of and illicit trafficking in motor vehicles had become another activity of organized crime that employed methods such as corruption of public officials and bribery in the private sector, thereby undermining both democratic and economic institutions. The Conference was innovative in that it brought together for the first time in the context of the United Nations Crime Programme representatives of both Governments and the private sector. Effective solutions depended on the synergy between public institutions and the manufacturing and insurance industries.

C. Election of officers

13. The Conference elected the following officers by acclamation:

Chairman:	Andrzej Anklewicz (Poland)
Vice-Chairmen:	René Bregeon (France) and Konstantin Goriainov (Russian Federation)
Rapporteur:	Jonathan M. Winer (United States of America)

14. The Conference decided to establish an informal open-ended working group to consider draft proposals and recommendations and to entrust it to Vice-Chairman Goriainov.

D. Adoption of the agenda

15. The Conference adopted the following agenda:

1. Opening of the Conference.
2. Election of officers.

3. Adoption of the agenda.
4. General overview of the situation.
5. Exchange of information.
6. National legislation, including regulations on registration of vehicle and procedures for the recovery of stolen vehicles.
7. International cooperation and the role of the private sector in the prevention and control of the theft of and illicit trafficking in motor vehicles.
8. Conclusions and recommendations.
9. Adoption of the report.

III. SUMMARY OF THE DISCUSSION

16. Before opening the discussion, the Chairman, the Deputy Minister of the Interior of Poland, thanked the participants for the confidence displayed in his Government and underlined that he was looking forward to a wealth of information and a productive exchange of views leading to common solutions to a common problem.

17. Delegations provided information on patterns and dynamics of related types of crime in their respective countries, as well as its impact on neighbouring and other countries. They also elaborated on their specific approaches to tackling the theft of motor vehicles. Reference was made to the establishment of bilateral computerized linkages allowing a rapid exchange of data on stolen motor vehicles among concerned law enforcement agencies. Some delegations and observers reported on new technologies to improve marking and identification of motor vehicles and to track stolen vehicles through the use of satellites and radio frequencies. Speakers pointed out that they were concerned about the lack of effective international cooperation, which was caused in part by loopholes in national legislation and controls. The need for efficient and expeditious exchange of information was highlighted in particular, while safeguarding the rights of the individual, especially the right to privacy. In order to improve international cooperation, it was necessary to work towards uniform registration procedures and documents. It was pointed out that the problems caused by the multiplicity and divergence of such documents and procedures were exacerbated by the different languages and the lack of knowledge and experience of border control personnel. Further, it was stressed that countries should improve their cooperation regarding recovery and return of stolen vehicles.

18. One representative reported on the results of two meetings of police officers from 24 European countries, which had taken place in the second half of 1996. While he emphasized the technical aspect of those meetings, he also highlighted the value of their recommendations as regards better training for police.

19. Other representatives informed the Conference of current progress in the establishment and functioning of national data banks. In the United States, for example, the National Crime Information Center was engaged in 1.5 million transactions per day dealing with creation and cancellation of records and responses to queries. Canada had some access to data of the National Crime Information Center and other countries could obtain authorized access to it by signing a state user agreement.

20. Observers from the United Nations Interregional Crime and Justice Research Institute and the European Institute for Crime Prevention and Control reported on their current initiatives in the field. The observer from the United Nations Interregional Crime and Justice Research Institute highlighted some of the current trends in car theft on the basis of a victimization study carried out in a number of developed and developing countries. The observer from the European Institute shared some preliminary findings from the European survey conducted in cooperation with the Ministry of the Interior of the Russian Federation.

21. The observers from ICPO/Interpol made a presentation on the ICPO/Interpol ASF International Stolen Vehicle Database, which was intended as a single reference point for stolen vehicle information. Access to the database would be made available to all States members of ICPO/Interpol in the near future. It was estimated

that, when fully operational, the database would result in a significant reduction of workload for police authorities. For countries without a national stolen vehicle database, the ICPO/Interpol database was intended to serve that function. There were three possible methods of updating the database, while the method of inquiry was in an easy-to-use Windows format. The Interpol telecommunications network was expected to cover the world by 1998. There were currently 4 countries transferring data, while 13 others had acquired the software needed for interrogating and remotely updating the database. Five more countries were preparing to download data. Countries in South America were currently receiving training in using the software.

22. Observers from insurance companies and vehicle manufacturers informed the Conference of their activities related to the prevention and control of this form of criminal activity. In particular, it was mentioned that new systems had recently been or were currently being developed to improve vehicle identification or intended for target hardening, including sophisticated tracking mechanisms. The private sector was actively seeking to contribute to the efforts of Governments and was promoting reliance on research and technology.

IV. ADOPTION OF THE REPORT

23. The Conference adopted its report, including the resolution contained in chapter I above, on 3 December 1996.

24. After the adoption of the report, the representative of IRTO, in expressing the full support of his Organization for the model treaty for the return of stolen or embezzled vehicles, also called the attention of the Conference to the current work of ECE, in particular the draft convention on measures to prevent the theft of vehicles in international road traffic and to defend the rights of their lawful owners considered by the Inland Transport Committee (TRANS/SC.1/WP.1/R.129). He also expressed the wish that the document be brought to the attention of the Commission on Crime Prevention and Criminal Justice.

V. CLOSING OF THE CONFERENCE

25. The Conference was closed by the Chief of the Office of the Council of Ministers of Poland, Mr. Leszek Miller. He emphasized the fact that, owing to the deleterious effects of transborder crime, international cooperation against it had become the fourth major area after political, economic and military cooperation. The recent Polish initiative in the General Assembly with a view to elaborating a framework convention against organized crime should be viewed in that perspective. The practical recommendations made by the Conference were a demonstration of both the political will and the interest of Member States to combine their efforts in the fight against one particularly onerous form of organized crime.

26. The Officer-in-Charge of the Crime Prevention and Criminal Justice Division ensured the Conference that the Division would do its best to provide the proper follow-up to its recommendations by bringing them, as requested by the Conference, to the attention of the Commission on Crime Prevention and Criminal Justice at its sixth session, to be held at Vienna from 28 April to 9 May 1997. He also thanked the host Government and all the participants for their cooperation, which had made the Conference a success, in spite of the limited time and resources available.

27. The Chairman of the Conference, in expressing his appreciation for the work accomplished during the two days of the Conference, stressed the importance of ensuring proper follow-up to its recommendations. Before officially declaring the Conference closed, the Chairman asked the participants to submit any comments or specific input concerning the model treaty to the Secretariat by 28 February 1997.